

THE JOURNAL OF LIBERTARIAN STUDIES

AN INTERDISCIPLINARY QUARTERLY REVIEW

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THE FIRM IN A FREE SOCIETY: FOLLOWING BASTIAT'S INSIGHTS

Pascal Salin*

Frédéric Bastiat did not devote much attention to the problem of the firm, so taking an interest in his thoughts on the topic could seem strange. Yet, the foundations for a realistic theory of the firm (and, more generally, of the distribution of human activities) are found in chapter 14, “Wages,” of Bastiat’s classic book *Economic Harmonies*.¹ Further, the way that Bastiat lays the foundations are both original and profound. In this article, I will review Bastiat’s approach, develop it more fully, and draw some practical and theoretical conclusions about the nature of the firm.

FRÉDÉRIC BASTIAT AND THE FIRM

The wage system particularly has been the object of the socialists’ attack. They have almost gone so far as to present it as something hardly less cruel than slavery or serfdom. In any case, they have viewed it as an oppressive and one-sided arrangement having only the semblance of

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I thank members of the Séminaire de théorie économique Jean-Baptiste Say at Université Paris-Dauphine, particularly Georges Lane, Jacques Raiman, and Alain Wolfelsperger, for their comments on a previous version of this article.

¹Frédéric Bastiat, “Wages,” chap. 14 in *Economic Harmonies*, trans. W. Hayden Boyers, ed. George B. du Huszar (Princeton, N.J.: D. Van Nostrand, 1964).

liberty, as exploitation of the weak by the strong, as tyranny exercised by capital over labor.²

Here, Bastiat clearly explains the Marxist vision according to which wage-earners are exploited by capitalist entrepreneurs, and working relations are basically asymmetrical. Bastiat's own approach, on the other hand, is a dynamic analysis of the emergence of wages in a world of uncertainty.³

Interestingly, Bastiat's chapter on wages does not address precisely the issue of wages. Instead, Bastiat makes a comparison between the specific role of wages and other human phenomena. By so doing, he demonstrates that the existence and role of wages cannot be understood except by referring to a more general theory of human action in society. The process by which there is a differentiation of roles inside the firm is exactly the same as the process which induces people to buy and sell insurance or to pay and receive interest payments. Thus, Bastiat analyzes some of the reasons why individuals cooperate not only through exchange but also by creating associations.

One important reason for cooperation is the fact that different individuals hold different subjective expectations about the possibility of losses. When risk is viewed as too high, individuals may find it profitable to create a mutual insurance organization. Each member, by contract, agrees to bear a given portion of the damages incurred by other members. In such an organization, each member plays exactly the same role (except that each share is different from the other if the values of the insured properties are different). Such an organization is created because each member of the mutual fund prefers a low risk with a high subjective probability over a high risk with a lower probability. As Bastiat puts it, "Fixity is very attractive for people. However, when considering the nature of men and of their activities, it seems that fixity is not compatible with it."⁴ Thus, individuals create associations in order to gain more fixity.

Bastiat's explanation is a real contribution to understanding human activities in society. He stresses that everyone, even socialists,

²Bastiat, "Wages," p. 366.

³This uncertainty and its role in wage-earning is particularly stressed in G. Lane, "Bastiat, l'aversion pour l'incertitude et la loi de l'association," *Journal des économistes et des études humaines* 11 (June/September 2001), pp. 415–50.

⁴My translation.

agrees about the benefits of associations as a means to share risks. But, he adds, “Indeed, the socialists give the name *association* exclusively to arrangements of this kind. As soon as speculation is introduced, they say, association disappears. I say that it is improved.”⁵ Thus, according to socialists, as soon as a speculator—a profit-seeker—is introduced in an association, its very spirit and its very justification vanish.

On the contrary, according to Bastiat, the speculator’s presence enhances the association’s capacity to meet its goals. Taking a dynamic view of the development of human activities, Bastiat thus imagines that some entrepreneur (or some company) comes to the group of mutual insurance members and tells them the following:

By providing for mutual insurance, you have tried to purchase your peace of mind. The price this precious asset costs you is the indeterminate assessment you set aside annually to cover your losses. But you never know in advance what this price will be; and, on the other hand, your peace of mind is never complete. Well, I am here to propose a different procedure. In consideration of a *fixed annual premium* that you will pay me, I will assume the risk for all losses. I will insure all of you, and here is the capital to guarantee my promises.⁶

From a practical point of view, it is likely that it is easier for one person (or the representatives of a company) to decide to meet the numerous members of the mutual fund rather than the reverse, and this is a logical implication of the theory of collective decision. However, from a theoretical point of view, it does not matter at all whether the negotiation between the entrepreneur and the mutual fund members has been initiated by one or the others. There is a fundamental symmetry in the arrangement, as in any contractual arrangement. The final arrangement ought to be the same whether an individual chooses to cooperate through contract with a group of individuals or whether several individuals decide in common to negotiate with him and to sign such an agreement.

In the real world, such as in starting a new business, neither the first nor the second situation prevail. Usually, the team of workers—which would be analogous to the mutual organization above—does

⁵Bastiat, “Wages,” p. 363, emphasis in original.

⁶Bastiat, “Wages,” p. 364, emphasis in original.

not exist before the entrepreneur is present. Rather, a potential entrepreneur assembles the team of workers, according to his project, by hiring isolated workers who did not know each other. Likewise, the insurance entrepreneur establishes his project, and enrolls isolated insurees who did not know each other. But, once more, this is not a substantial aspect of the problem. In any case, the relations between all of them are exactly the same.

The association's members agree to pay a little more than their normal share in order to get perfect safety and peace of mind. According to socialists, says Bastiat, there is no more association since an intermediary has introduced himself between the associates. But, Bastiat argues, there is no fundamental change, except that the associates have found a way to remain in the association without having to care about its management.

As regards the entrepreneur, he provides two sorts of services. First, he takes away from the associates any remaining element of risk. Second, he takes care of the management of the association. Bastiat stresses the voluntary, and therefore beneficial, character of this contractual arrangement since, in any exchange, both parties to the exchange, given their differences in capacities and tastes, benefit from their specialization, which makes exchange possible. According to Bastiat, "The association thus transformed is in a position to improve in every way."⁷

Bastiat uses his insurance example to show how purely contractual arrangements make it possible for individuals to better organize social cooperation and to better manage life's inherent risks. He then generalizes this approach, making it applicable to all sorts of human activities. For example, he is able to explicate the role of wages, profits, and interests, and, by implication, the working of the firm.

It should be clear that while a firm is an association in the sense that Bastiat uses the term, it is not an association in the way that socialists use it. Thus, he writes,

[b]ecause of these same prejudices, this same ignorance, [socialists] rail constantly against *interest*, or else against *wages*, which are *fixed* forms, and therefore highly developed, for the payment of what is due to capital and labor.⁸

⁷Bastiat, "Wages," p. 365.

⁸Bastiat, "Wages," p. 366.

Further, it is because of the socialists' fallacious approach that wage-earners wanted to get rid of the wage system and to replace it by some sort of association, "as if *association* and *wages* were mutually exclusive."⁹

This mistrust in wages and in the wage system may seem overcome in our time, but, in fact, we just find it under other forms. It certainly inspires Marxists, since they describe the entrepreneur as someone who is in such a power position that he can extract part of the return which ought to be obtained by workers as a counterpart to their productive contribution to the firm output. The idea according to which only workers (wage-earners) are productive, whereas the entrepreneur is a sort of parasite which extracts resources from the community of workers, has, explicitly or implicitly, inspired all experiments and proposals about worker management. Further, this idea is present whenever one disagrees with what is his or her "fair share," an implication that wage-earners ought to receive a part of the profits of a firm.

THE FIRM AS A SYSTEM OF COOPERATION

Following Bastiat's example—Bastiat, by the way, can be considered as a precursor of the modern theorists of contracts and agency problems—let us assume that a team of workers does exist. It can transform into a capitalist firm by two means:

- An entrepreneur offers a new set of contracts by which he specializes in organizing the team and taking care of risk.
- Workers decide to become wage-earners so they hire the services of an entrepreneur who, according to the contract between them, only gets a residual income (i.e., the part of value added which is not absorbed by wages and interests).

In any case, the firm newly created, through the transformation of the team of workers, is nothing other than a set of contracts. As such, its creation is necessarily beneficial to all, as is any contract which has been freely agreed upon by contractors. By substituting a more complex set of contracts (the firm) for a simpler set of contracts (the team of workers), those who voluntarily contract reveal that they consider the new set as beneficial for all of them.

⁹Bastiat, "Wages," p. 367.

It is true that, in some cases, they may make the wrong choice and later regret it, but this is not the issue. At the time they accept the new set of contracts, they believe it to be beneficial. The fact that, throughout history, humans have regularly selected the set of contracts known as a firm, rather than selecting other sets of contracts, is evidence that they have learned from experience that the firm is the most efficient set of contracts.

Bastiat identified two justifications for this differentiation in roles: a better organization of the productive process, and a better distribution of risk-taking. Let us consider them successively.

Organization by a Manager

In order to better analyze the improvements thus introduced by firms, let us first focus on the problem of personal capacities and specializations by considering a purely imaginary situation in which there is no uncertainty about the final production of a team of workers. Let us also assume that we are initially in a pure exchange economy without any economic organization. Each individual is endowed with primary resources and his own productive capacities (his mind). He transforms the resources he owns or the ones he got by exchange, and he sells any output that he does not invest or consume himself. His customer, in turn, transforms what he bought, and consumes, invests, or sells the output. For instance, to build a car, one worker would build a chassis, and then sell it to some other worker. The second worker would add a body, and sell the product to a third worker who would add an engine, and so forth until the entire car is produced.

But to increase productivity and, therefore, the income of each member of this productive chain, a team organization is probably desirable. We will distinguish between two basic cases, one in which self-organization by the workers is possible, and another where such self-organization is not possible.

When Self-Organization is Possible

Self-organization is possible if the production process is simple and the team is small. The members of the team organize themselves, allocating a specific task to each according to their respective abilities.

However a problem will appear as soon as the common product of the team has to be allocated. If the allocation is decided after the production has taken place, there is a great probability that producers will disagree about the share each is to receive. Let us assume that

they somehow reach agreement about distribution, such as via some voting process. In order to maintain peaceful relations within the team, all members accept it, although it may create an unfair distribution of wealth. There also exists the possibility that the decisions about the distribution are brought about via coercion: the strong members coerce the weaker ones, as is the case under socialist production. The possibility of such an outcome under this type of decision process may lead people to be more reluctant to engage in team production, and therefore reduce the overall productive capacity of the society.

The best way to obtain a peaceful and agreed-upon distribution of the total return is for the team members to contractually agree on the rules before production takes place. Thus, economic calculation is possible and distributional risks are eliminated. This solution is beneficial for people because, as Bastiat wrote, men like fixity. While the cost of fixity may, in some cases, outweigh its benefits, in which case men will not buy it, in the present case, the cost is presumed to be smaller than the benefit, making it worthwhile to accept it. In fact, in this case, the costs are mainly negotiation costs. The members of the team have to discover supplies and demands for the various possible qualifications of members. The shares will finally depend on the contribution of each member of the team and on the relative scarcity of his precise ability; there is no reason to believe that such productive contributions will be equal, so there is no reason to expect all shares to be equal.

Thus, a series of bilateral contracts and exchanges has been replaced by a system of cooperation based on a set of contracts. Members of the team can sell their labor services, rather than their output, to a collective entity. In exchange, each member receives a previously-agreed-upon share of the common output. The institutional change to a more complex and abstract set of contracts allows for an overall improvement in productivity. An individual producer's share of the common production can be called a wage, but referring to this person as a wage earner instead of as a productive team member is only a specification of his more general status: he is a producer who acts and trades.

When Self-Organization is Impossible

Self-organization may, in practice, become impossible if producers are numerous and if the productive process is complex. In such a case, the team members (the wage-earners) will have an interest in

looking for an organizer, as Bastiat suggested. We may call this organizer a manager, but it would be premature to call him an entrepreneur, since we have assumed for the time being that there is no uncertainty. According to their respective comparative advantages, the producers of the firm specialize either in this general management task or in another more specific productive task; thus, a differentiation of roles is introduced in the firm.

However, it would be wrong to interpret this differentiation as an asymmetry. The manager is not at the top of some hierarchical organization, giving orders to people with a lower status. The members of the organization engage in different tasks; there would, after all, be no sense in a contract between identical co-contractors. However, these differences do not and can not imply any asymmetry; all members of the organization are equal in the sense that they have equal rights.

In the case of the firm, the manager and the other workers sign contracts with the abstract entity called the firm—which is the collectivity of members—and they are all linked by the same type of relations. From this point of view, we may as well say that the manager hires the other workers or say that the workers hire a manager. It is not substantial to the understanding of the working of the firm to decide who hires whom. In fact, it may be preferable not to use such terms term as “to hire.” Rather, we may be more satisfied with saying that the individuals are contractors, they are partners in exchange, and they get part of the output. We may imagine that, historically, in one case, the manager looks for workers and “hires” them and that, in another case, the workers look for a manager and “hire” him, but the result is exactly the same. There is an agreement between all of them for a given specialization of each one.

When the firm exists because all agreed to their respective contracts, workers sell their services to the organizer, who, in turn, sells the output on the market, pays the wages, and keeps his share of the output. The important point here is that such a set of contracts never constitutes a command system. Semantic confusion is introduced when one says that the manager or, later on, the entrepreneur, “hires” the workers, when, in fact, he buys their services. A similar confusion exists when one says that there is a hierarchy in the firm, with the manager giving orders to the workers. A hierarchy would imply a command system in which relations are unilateral.

Such a unilateral command system is the case with relations between the men of the state and citizens. The former give orders to the

latter, and use coercion to ensure that they are obeyed. Clearly, this can never be the case if relations are based on free contracts, as occurs in the firm. From this point of view, it is fallacious to describe a firm as an organization structured by a hierarchy. A firm's managers are not at the top of some hierarchy; they just have a different and more complex role than other participants.

In any contract, there is a necessity for each contractor to make sure that others fulfill their specific obligations. Let us consider what happens when workers sell their services to a manager. The workers have the easy task of making certain that the manager pays the wages which have been agreed upon. The manager, on the other hand, has the far more difficult task of monitoring the workers, who may be many and have varied skills, to ensure that they are performing according to their agreement. Thus, the manager spends far more time ensuring compliance of the workers than the workers spend ensuring compliance of the manager. This differentiation of roles and monitoring tasks gives the impression that there is a hierarchy. Again, let us be clear, the manager is not a commander-in-chief of an army of workers. A well-functioning capitalist firm incorporates monitoring procedures, but no hierarchical relations. It could even be said that the capitalist firm has been invented because it is not a hierarchical system.

Stressing this feature of the capitalist firm makes clear that such a firm is not essentially hierarchical, so it is inappropriate to define it as such. However, concrete appearances are not always as clear-cut as that. In reality, a contract can never stipulate all of the duties of a wage earner, so some broad language is likely to be included in the contract, such as saying that the wage-earner will follow the instructions of the firm's owner or manager. This opens the door to possible misunderstandings or refusals to engage in particular actions under particular circumstances.

For example, contractual duties are more loosely defined in Latin countries than in Anglo-Saxon countries. This may allow Anglo-Saxon workers more leeway in refusing to take actions not explicitly covered in the contract, while leaving Latino wage-earners feeling that they must follow orders and have less say over their contracts. Nonetheless, such contractual specifications (or lack thereof) do not transform the nature of the firm, namely, the fact that it is a set of contracts between individuals who benefit from the same rights.

Uncertainty

Let us leave now the purely hypothetical case of a firm without uncertainty. Since men like fixity, they are ready to pay for the services consisting of suppressing uncertainty. As is well known, the entrepreneur is precisely the one who absorbs the uncertainty. Since the value of the firm's future production is uncertain, the entrepreneur promises to the wage-earners a fixed wage which is less than the expected value of their production. By the same token, the wage-earners are paying the entrepreneur to absorb the uncertainty. If the market value of the production is higher than the costs, the entrepreneur earns a profit; if it is lower than the costs, the entrepreneur suffers a loss. The wage-earners earn the same wage in either case.

The wage-earners could decide in advance, without knowing the total market value of their combined output, the share of the total output that is to be received by each worker. However, history has repeatedly shown that workers usually prefer to transfer the uncertainty to someone who specializes in the provision of certainty, in the same way as an insurer is paid for providing a safety service. As with any voluntary contractual arrangement, such a contract is beneficial for both parties. The workers buy more safety at the expense of a possible lower gain (but also, possibly, a lower loss) and the person who absorbs the uncertainty gets a more or less important return by selling safety services.

It is not necessary that the manager be the same as the person who absorbs the uncertainty, but there are two good reasons for them to be the same person. First, few would be willing to absorb the uncertainty without the ability to monitor the production process. Second, the manager has more incentive to efficiently control the production process and to innovate if his returns depend on his own decisions.

Since the entrepreneur plays both roles, what we said previously about the relations between the wage-earners and the manager still holds. The entrepreneur does not become a chief in a hierarchical structure merely because, in addition to his role as manager, he absorbs the uncertainty. In no case is a firm built along the lines of a command system; it remains a set of contracts under any circumstances. The entrepreneur, who is both a manager and a sort of insurance company, is also a capital-owner, as had been well emphasized by Bastiat. After all, in order to be acceptable as insurer, an entrepreneur must own capital, making it possible to guarantee that he will honor his contracts, and attracting confidence from the other contractors.

Saying that the entrepreneur is the owner of the firm means that he owns part of the present means of production and rights on future profits. As an owner, he can sell the firm, i.e., sell a complex set composed of capital goods, the specific organization he has implemented, the specific contracts he has signed, and so forth.

SOME IMPLICATIONS OF THE ANALYSIS OF THE FIRM

The traditional definition of the firm as a set of contracts is important and correct. Numerous consequences can be derived from this very definition.

Differentiation and Asymmetry

As was already stressed, contracts exist because people are different. But differentiation does not mean asymmetry, which can only exist in a command system in which some people can coerce others. Relations are unilateral in a command system, bilateral in a contractual system. According to Mises, "There are two different kinds of social cooperation: cooperation by virtue of contract and coordination, and cooperation by virtue of command and subordination or hegemony."¹⁰

As we know, individual goals are all different and cannot be compared. This has important implications to the free society, and to the coercive society. Since there is no way to engage in inter-personal utility comparisons, it is impossible to claim that any voluntary relationship is asymmetrical, or that it benefits one party more than it benefits another. On the other hand, when individuals are parties to transactions via coercion rather than voluntary choice, it is quite clear that one side gains and the other side loses. In comparing these two situations, it is clear that there cannot be asymmetries in a capitalist firm.

A similar argument may be made concerning information asymmetries. Different individuals choose to get different information, and people enter into various forms of associations because they have different knowledge. For instance, a wage-earner transfers to the entrepreneur the uncertainty about the demand for his own work, because the entrepreneur better knows how to meet this demand. Thus, merely

¹⁰Ludwig von Mises, *Human Action: A Treatise on Economics*, 4th ed. (Irvington-on-Hudson, N.Y.: Foundation for Economic Education, 1996), p. 196.

to observe that different individuals possess different information does not imply asymmetries in their relationship.

The Goal of the Firm

Microeconomics textbooks often state that “profit is the goal of a firm.” This same statement is also made by socialists who attack the firm under the pretext that a firm’s very existence tends to create beneficial results only for a small set of individuals, namely, the owners. However, the textbooks and socialists are in error.

A firm, being a set of contracts, cannot have a goal, since only individuals have intentional activities. Further, the individuals who sign contracts have different and even diverging goals. The entrepreneur may look for profit, but also seek other goals, such as prestige, influence, or satisfaction of curiosity. Wage-earners probably look for high wages, but are also likely to be interested in a pleasant working environment, insurance benefits, or an easy commute. Not only do we not know these various goals, we don’t need to know them. Traditional microeconomic analysis uses a simplistic approach with a single, arbitrary variable (the maximization of profit) as the goal of a firm. An alternate approach, used by Bastiat and Mises, assumes that each individual participant’s goal is personal utility maximization, which may or may not be consistent with profit maximization of the firm. Such an approach is logically superior to the mathematical approaches in modern textbooks.

There is a plurality of goals in a firm because there is a plurality of individuals whose goals are diverging, or even antithetical to each other. One fundamental role of the entrepreneur, as an organizer of social cooperation, is to make these goals consistent with each other. In fact, it seems clear that a firm cannot work efficiently if this diversity of goals is not taken into consideration.

Decision-Making In A Firm

While socialist societies create hierarchical organizations (wrongly called firms), and family-based societies are hierarchical, a capitalist organization is not hierarchical. In the capitalist firm, the owner and managers are not giving orders to wage-earners; rather, they are fulfilling their own differentiated role as organizers, for the mutual benefit of all—wage-earners as well as entrepreneurs. Some wage-earners

and some entrepreneurs are good at their respective roles, and others are bad. In such a mix, some outcomes may create the illusion of a command society, but this does not make it so.

Further, because no contract can specify every possible circumstance, someone has to decide how to face new situations. When facing some new challenge, the entrepreneur, being the organizer of the work in the firm, is the one who decides what the worker has to do. The worker can argue that the decision does not correspond to the terms of the contract and, at the limit, can quit.

Deciding to leave the firm is more or less easy. It depends, for instance, on the expectation of finding a new job on the labor market, on one's compensation, and a variety of other individual factors. It may also depend on the institutional characteristics of the firm. If, for instance, a firm benefits from a monopoly privilege and a wage-earner's job is very specialized (train driver, professor of economics, etc.), he may have difficulties in finding a new job. Thus, a worker's expectations of finding other employment may have an impact on that worker's belief in the existence of a hierarchy in the firm.

However, the existence of orders coming from the top and going to the lower levels is not a *substantial* characteristic of a firm. The fact is that there are firms in which orders are never given. Even if a more or less great number of managers behave as if they were in a command system, a capitalist firm cannot be defined or described by the existence of orders and hierarchy. Analyzing the nature of the firm requires the analysis to look for a firm's substance, rather than to merely consider the incidental features of some firms.

The Act of Will and the Differentiation of Interests

While the preceding analysis of the firm constitutes an answer to many of the usual prejudices about the respective interests of wage-earners and entrepreneurs, the leftists also offer a static and biased approach. Because they do not understand the wealth-creating process or the coordinating role of the firm, they consider that what the entrepreneur gets is at the expense of the wage-earners.

Further, when they object to the idea of profit maximization as the only goal of a firm, they do so for incorrect reasons. Rather than recognize the myriad goals by participants in a firm, they are happy to attribute an act of will to a collective entity, such as a firm. Once they attribute this collective entity with a will, they argue that it should

take into account the interests of both those who earn wages and those who earn profits.

From this wrong interpretation of the very nature of the firm come all sorts of fashionable ideas, for instance, those who argue that “social logic” should supercede “financial logic.” Likewise, there are those who argue that firm governance should consist of decision processes that include stake-holders as well as share-holders. While they correctly recognize that people in different roles have different interests, they fail to recognize that the capitalist firm has its particular organization precisely *because* of these different interests. It is, after all, the voluntary capitalist structure that allows all these interests to be made compatible with each other. This joining of interests is completely ignored by all fashionable streams of thought, as well as by political decision-makers.

Differentiation and Symmetry of Rights

Let us return to the previously mentioned problem of differentiation and symmetry of rights. In a contractual arrangement, individuals may have different goals and bring different capacities, but they have the same rights so there is no asymmetry. However, as regards the working of firms, language often creates confusion. When symmetry exists in a social reality—as is the case with voluntary contracts—then the same symmetry has to exist in language. However, the language employed when discussing firms is more or less contaminated by Marxian-type concepts.

For instance, if one says that “an employer hires an employee,” one ought also to say that “an employee hires an employer,” since both parties are equal and voluntary participants, and each is in a position to accept or reject the other. Likewise, if one says that “an employer fires an employee” when the employer terminates a voluntary agreement, one ought also to say that “an employee fires an employer” when the employee terminates the voluntary agreement. However, these second sets are not used in conjunction with these first sets, so the usually employed language suggests that the employer can unilaterally determine whether an agreement exists (to hire) or whether an agreement is terminated (to fire).

Many labor laws are predicated on the idea that there is an inescapable asymmetry between the employer and the employee. To rectify this supposed imbalance, many such laws make it more difficult for

employers to fire wage-earners than it is for wage-earners to fire their employer (to quit their jobs). While different people possess different capacities to act—it may be easy or hard for a worker to get another job, and it may be easy or hard for an employer to get another worker—this does not imply any asymmetry in rights. All parties *can* act to engage in a contract, to not engage in a contract, or to terminate a contract.

One may even argue that because the entrepreneur has to bear some specific constraints, those who believe in the existence of contractual asymmetries should really give the entrepreneur the additional protection. If a firm fails, the entrepreneur loses his past investment in time and savings, whereas wage earners take their accumulated human capital with them. If ever someone had to be protected—which, obviously, is not the case—why would it not be the entrepreneur since, after all, he bears the uncertainty? The wage-earners have traded away uncertainty for fixity, so their main potential claim to needing protection is gone.

In reality, the specific protection of wage-earners cannot meet any rational explanation. It is nothing but the result of the working of majoritarian democracy. Wage-earners are more numerous than entrepreneurs, and they vote to create a legal system which, at least they believe, works in favor of their interests. However, in many countries, excessive regulations and taxes have made it impossible for potential wage-earners and entrepreneurs to sign labor contracts, which is the real cause of unemployment. Because these existing laws make it more difficult for a wage-earner to find a new job after leaving a previous one, additional labor laws get passed to increase the protection of wage-earners against firing. This, in turn, further reduces the incentives for entrepreneurs to engage in contractual relationships with wage-earners, and unemployment is increased, not decreased.

Profit Sharing

A correct understanding of the nature of the firm leads to the rejection of proposals that mandate worker participation or profit sharing. Since the distribution of roles in the capitalist firm is done according to comparative advantage, the participation by workers in strategic decisions is one which reduces overall efficiency unnecessarily.

Further, since wage-earners traded away the uncertainty of profit for the certainty of wages, profit-sharing with wage-earners is also a

contradiction. It would be analogous to stockholders sharing profits with bondholders (lenders); bondholders chose to be bondholders to ensure a lower risk. If wage-earners (and bondholders) want to share in the profit, they need to share in the absorption of uncertainty by buying shares of stock on the market.

When governments mandate profit-sharing, they are changing the relationship of each individual to the firm, and changing the extent to which each individual absorbs the uncertainty associated with the firm. As such, it is foolish to legally mandate profit-sharing.

Still, voluntary contractors must be free to adopt any sort of contract. Thus, for instance, some entrepreneurs and employees may decide that employees will receive both a fixed wage and some participation in profits. This is often done with stock options, which are used to create incentives for those who engage in strategic decisions to make good decisions. Indeed, stock options are sometimes considered by stockholders as a good way to monitor the managers.

At the same time, though, it is obvious that holding shares of stock would be unlikely to modify the behavior of an unskilled or low quality worker in a big firm. After all, the decisions or actions by such an individual worker are unlikely to have any real impact on the stock price, so no incentive for better individual performance is created. This is the reason why stock options are generally only offered to a limited number of wage earners—generally only to those whose actions can have an effect on the stock price.

The Nature of the Firm

Explaining the limits between the firm and the outside market is a traditional problem (which could be called the “Coase problem”). If the market is “efficient” (as most economists believe), why does the firm exist? After all, it is well established that economic planning cannot work at the worldwide level, or at a national level, so why should it work at the firm level?

Alas, the very question is based on the assumption that the firm is a non-market organization that engages in planning. However, this approach to the nature of the firm is flawed; the firm is not a planning system, i.e., a system in which those who have power give orders to others and in which there are no prices. Rather, a firm is a system of contracts and, as such, it is a market system.

In understanding the workings of various human systems, reference to the market is inappropriate, since a market exists as long as

any sort of exchange exists. Rather, one ought to focus on questions such as the following: Are there free and voluntary contracts, or is there coercion? How are property rights defined and enforced? Are property titles tradable?

A free society is not a market economy; rather, it is a society of legitimate rights and free contracts. As is well known, coordination between individuals is made through the price system, the use of traditions, and general rules. In the pure exchange economy, individuals do not need anything else. In many other cases, though, some process of voluntary organization has to be added, and is considered an improvement. In such cases, coordination implies cooperation through some process of collective decision.¹¹ This process is collective in the limited sense that concerned individuals explicitly agree about some common rules or ways to behave and act. It does not mean that the organization by itself thinks and acts.

Such is the case with associations (condominiums, mutual funds, etc.). By entering freely into an association, a team, or a firm, an individual agrees not only to pay his fee or to sell his services, but also to cooperate with others according to some specific rules which exist or which are to be developed.

In a firm, as in an association, individuals share something in common, which may give the impression that the organization has its own life, goals, and existence. As an example, what is called a “firm culture” is not an objective reality, but is the result of more or less common perceptions. In fact, it may even be more correct to say that there exists not only one single culture in a firm, but several cultures.¹² Whenever this feeling of sharing something in common fades away, individuals may end their agreement and “leave” or, let us say, “fire” the firm.

¹¹Thus, cooperation is only one form of coordination, a form which implies the explicit organization of inter-individual relations, either under a hierarchical or non-hierarchical structure. The other form could be named “spontaneous order,” as suggested by Friedrich Hayek.

¹²For example, the folks in the mailroom, the cafeteria servers, the marketing staff, the accountants, and the assembly line workers may all share common perceptions among their own group, but not with all other groups in the firm.

CONCLUSION

As Bastiat stressed so well, socialists favor associations because they view associations as collective entities that possess the will to act. As such, socialists celebrate associations as being a superior alternative to capitalism. Further, they often use associations as unofficial parts of the state through which they can gain subsidies and privileges for themselves and their pet projects

Libertarians are certainly in favor of voluntary associations, since libertarians understand human nature, and know that individuals are social beings. But they also know, as Bastiat made so clear, that firms are the most perfect forms of associations.

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THE IMPOSSIBILITY OF THE STATE

Leonard Brewster^{*}

As with many titles, this one is misleading. I do not mean that a gang of individuals might not call themselves a State; they often do. Furthermore, the impossibility of the State entails neither the impossibility nor the undesirability of governance in some sense. In an anarchist community, people govern themselves, though there is no state, that is to say, no formal governing class with the associated tomfoolery of elections, parliaments, constitutions and so forth, or the worse folly of their absence.

And that's just the point. However successful Adam Smith might have been in persuading us that the division of labor in some of its applications vastly improves quality and efficiency, I shall argue that no specialized agency can replace self-governance. The State—understood as an institution which can bring order, or function for the good of the whole society, and is therefore of significant benefit to anyone outside the “governing class”—is an impossibility.

THE INTERESTS OF THE STATE

This is not to say that the State never acts in the general interest (whatever that might mean), or that its functionaries are always incompetents or villains (though it favors such). I mean that there cannot be anything calling itself the State which can perform in any perceived

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interest other than its own except as it sees its interests coincident with these others. Since, as I shall maintain, the very idea of the State is that it must perform in the perceived general interest, it follows that the State cannot exist. More surprising perhaps, those who masquerade as the State must, in order to nourish the illusion, create a steady supply of problems, the fiction that it is uniquely qualified to solve them, and the fantasy that it has done so.

It is not altogether surprising that the division of labor should fail at this point. There are some things we cannot escape doing for ourselves. Suppose we designated a group of people as exclusive food digesters. We might envision these rotund specialists munching their way through the huge dinners we furnished them while their waste products are elaborately piped to the rest of us. With the exception of the digesters, most would consider this an excessively complicated system of exploitation and eventual malnutrition. This is, in fact, a pretty good metaphor for the State (though it would be indelicate to make it more explicit.)

I shall try to establish the following two theses:

Thesis 1: The State must promote coordination and the provision of public goods.

Thesis 2: Whatever calls itself the State has no aptitude for promoting either.

I shall then argue that “coordination and the provision of public goods” is impossible for any central authority, whatever its aptitudes. I go on to point out that the State survives by creating problems which it then pretends to resolve. I conclude by attempting to reveal the real identity of what purports to be the State.

THESIS 1: THE STATE MUST PROMOTE COORDINATION AND PROVISION OF PUBLIC GOODS

The problem of coordination is perhaps best illustrated by the notorious “prisoner’s dilemma.”¹ Envision a pair of detainees separately

¹A useful online summary is Steven D. Kuhn, “Prisoner’s Dilemmas,” *Stanford Encyclopedia of Philosophy*, plato.stanford.edu. A good popular account is William Poundstone, *The Prisoner’s Dilemma* (New York: Doubleday, 1992). The central importance of Prisoner’s Dilemmas to the defense of the state is obvious given any sort of contract theory, but just as important is the standard for selection in any evolutionary alternative.

confined and accused of an offense they allegedly committed in concert. Their interrogator offers the following bargain. Should just one confess implicating the other, the “rat” (the one who confesses) gets one year’s imprisonment and his unfortunate associate gets slammed for ten. If they both confess, they are awarded three years imprisonment. If neither confesses, there being little evidence, both go free. As the two cannot communicate, neither of them has any idea what the other will do. Clearly, the best joint strategy (their general welfare, so to speak) is for them to hold fast. However, as each thinks that the other might fear being imprisoned for ten years, it appears that it is in their separate individual interests to confess, risking at most three year’s confinement as against ten.

The problem here is one of coordination. If the prisoners could communicate with each other, devise a joint strategy, and rely on one another to shut up, they would both walk. Lacking such coordination, they must settle for a miserably pessimistic strategy which is not really even in their individual interests.

Now the State obviously can do nothing to help the two prisoners. In fact, adopting the plausible assumption that they have been confined by State functionaries, it is interesting that the State, for its own purposes, has actually created an area of discoordination. Creating disorder rather than order better describes its actual function.

Nonetheless, it is alleged that the State is in the best position to resolve swarms of dilemmas having this form. For example, suppose some community is under attack from a powerful external force. Each member may perceive his own interest to surrender on whatever terms he can get. The best joint strategy might be to coordinate with his neighbors in a united defense. How, it may be asked, does one realize both the group’s best interests and his own, if not through the State?

Elegance might urge that we unite the provision of public goods and the resolution of prisoner’s dilemmas. However, elegance is not always clarity, and the focus of these two situations is somewhat different. The mark of a public good, if such there be, is that once provided, it is non-excludable (it cannot be fenced off or kept from anyone) and non-rival (one person’s use of it will not diminish another person’s). Oddly enough, the only relatively non-controversial example appears to be the atmosphere,² but others often cited are lighthouses,

²Notice that the State does not furnish air, nor has it yet devised a way to tax it.

street lights, vaccinations, and (showing the connection to prisoner's dilemma) national defense.

It is argued that since no one can be excluded from consuming public goods, but that such goods are needed and that costs are incurred in their provision, only taxes will make them possible without a debilitating and perhaps fatal incidence of free riding (use of the goods and services without paying for them.) Who is to tax, if not the State?

Supposedly, the State possesses a unique aptitude for resolving prisoner's dilemmas and providing public goods since it is supposedly held in almost universal respect, is widely trusted, has access to the most up-to-date information, and, not least, having awarded itself a monopoly of legitimate aggression, will be obeyed as it forces free-riders to pay their share. Albert J. Nock took licensed aggression and the power to tax to be the State's two defining marks.³

THESIS 2: WHATEVER CALLS ITSELF THE STATE HAS NO APTITUDE FOR PROVIDING PUBLIC GOODS OR RESOLVING PRISONER'S DILEMMAS

We should constantly bear in mind that the State or the government is just a group of people, and seldom the best people. It is not, as Rawls would have it, "a machine which makes social decisions when the views of representatives and their constituents are fed into it."⁴ Still less is it the representative of God on Earth, as James I, Robert Filmer, or Hegel believed. It is also clear, as Michael Bakunin pointed out in a controversy with Karl Marx, that the privileges and luxuries accorded political leaders make it impossible for them to *represent* the interests of the people, even if we suppose, falsely, that this last phrase has any meaning. There is no State, but there certainly is a ruling class.⁵

This must lead to the suspicion that the alleged State might not be as indispensable to the resolution of prisoner's dilemmas and the

³See Albert J. Nock, *The State of the Union*, ed. Charles H. Hamilton (Indianapolis, Ind.: Liberty Press, 1991), pp. 226–27.

⁴John Rawls, *A Theory of Justice* (Cambridge, Mass.: Harvard University Press, 1971), p. 146.

⁵When we mistakenly think we are dealing with the government, we are, in fact, dealing with the ruling class. This helps explain why those who occupy political office hardly ever act like "public servants."

provision of public goods as James I (for instance) might have believed. Adding another player to a prisoner's dilemma only complicates the matter, and you unpleasantly trivialize it by investing this player with the means of resolving the dilemma in his favor.

Consider Hobbes's bargain. Acting in our own interests, we are supposedly doomed to a life "solitary, nasty, brutish, and short." To avoid this, Hobbes claims, we contract among ourselves to establish a sovereign who forces us into cooperation and, thus, happiness, even as this compels us often to act in a way contrary to our individual interests.⁶

But what incentive does the sovereign have for doing any such thing? His interests may occasionally *coincide* with those of a large number of his subjects, but this will be mere chance. The general interest may be *defined* as identical with that of the sovereign, but that is mere tautology. The matter is complicated, but not the least improved, by supposing the sovereign to be elected or to take the form of a parliament. This just brings propaganda to the fore, and makes the ruling class a little larger.

Reinforcing the general suspicion that the State may be a bad bargain, we consider the expandable margins of self-interest. Our still languishing prisoners *might* know one another well enough to arrive without Hobbesian assistance at the optimal strategy. Alternatively, they might belong to an organization with a norm that one must never "drop the dime" on another member.⁷

What this brings out is that for iterated prisoner's dilemmas (in which the situation is repeated over and over), outside assistance becomes redundant and worse. The ability of the prisoners to trust one another enough to keep silent, despite the inducement to do otherwise, presumably derives from having observed one another's behavior in similar perplexities a number of times. Even in ignorance of the other's behavior on a given occasion, they would likely have developed a strategy that converges toward optimum. Another way of seeing this is that their interests spontaneously expand and overlap. Similarly,

⁶Anthony de Jasay, *Social Contract, Free Ride* (Oxford: Clarendon Press, 1989), pp. 85–95.

⁷E.g., *Omerta* is allegedly just such a norm among the Mafia's "made men." Incidentally, studying organized crime is one of the better ways of understanding conventional politics, assuming these are different things. See Nock, "The Criminality of the State," in *The State of the Union*, pp. 269–76.

omerta as a Mafia norm undoubtedly originated in the experience over time of the disadvantages of leaving members vulnerable to outside intimidation. Thus would have formed an optimizing strategy of benefit to the made men and especially to their leaders, internalized by the former and certainly enforced by the latter, and again creating a system of overlapping interests without third-party coercion.

An example more to the point is defense, thought rightly to be the most plausible of State functions. Suppose, as before, a number of communities are attacked by an outside force strong enough to overwhelm them if taken one by one, but not so if they combine. This can be interpreted as an example of a prisoner's dilemma and defense as a public good. Since each community fighting separately loses, its members slaughtered or enslaved, the preferred strategy is to combine. It takes no Rawlsian consent machine to grind out this conclusion, nor a representative of God on Earth to see it. Any fear that one community might dominate the federation is mitigated by the certainty that the State will.

Prisoner's dilemmas are alleged to represent demands that only the State can satisfy, and public goods are conceived as those objects and services by which the State supplies the demand. However, as we have seen, this claim in the case of prisoner's dilemmas is questionable. That being the case, it follows that the very notion of a public good is suspect. After all, if prisoner's dilemmas can be resolved without State intervention, then the goods (and services) which, in view of their supposed non-rivalry and non-excludability, the State is uniquely competent to furnish, may not exist as such.

Perhaps one of the few generally acceptable examples of a public good is the atmosphere. If the air we breathe is not inherently non-rival and non-exclusive, what is? This is only because there is seldom any point in rendering the atmosphere scarce, but such scarcity is possible. Imagine any number of people confined in an air-tight room in which the oxygen supply is regulated by a spigot, located outside and controlled by an "air lord." The group is excluded from the supply of oxygen by turning off the spigot. Supposing that there are n people in the room, rivalry is created by supplying oxygen sufficient only for $n-1$. So, even the air we breathe is only a public good under certain conditions, which, fortunately, usually obtain.⁸

⁸Scott Kjar suggests the less exotic example of divers each with his own oxygen tank. The air in each diver's tank is both rival and excludable.

Notice that under these conditions, there is no question of the State being involved because the good is genuinely (though not under all conditions) non-excludable and non-rival. Having these characteristics in any significant sense takes “provision” out of the hands of either the entrepreneur or the state bureaucrat and leaves it to what we may vaguely style “Nature.” This suggests that even where we find public goods, the State may be irrelevant to their provision precisely because they are public goods. Consider light, sound, beauty.

Before we examine empirical arguments against the State’s unique aptitude for resolving prisoner’s dilemmas and thereby furnishing public goods, we might notice that the State itself (at least in its own estimation) must be a public good. As such, if it is not eternal and divine, it must itself furnish one example of the private production of a public good. Why not others? Furthermore, if we set aside theological-style blocking arguments (e.g., you can’t inquire after God’s origin as he is eternal, and the like), we have difficulties making sense of the State as resolving prisoner’s dilemmas involving individuals. Who would then resolve the perhaps more desperate dilemma thus created between these individuals and the State?

Prof. Paul Samuelson, however, thinks of national defense as “an example par excellence of a public good” which the State is uniquely qualified to provide.

Could market laissez faire, with no political voting and no coercion, give the group the national defense desired by the majority? Evidently not—not in the same way that the market can handle our private bread needs. If I knew that I was going to benefit anyway from the defense you had paid for, why should I come into the market place and exercise a dollar demand for it? Patriotism would of course motivate me; but it would show itself in the way that my neighbors and I vote on election day and in the way we acquiesce in the coercive fiats legislated by our responsive government, rather than in our day-to-day private purchasing.⁹

Even granting all this, which I do only for the moment, national defense must be an embarrassment for one who defends the State, for it is obviously a problem the State itself has generated. Without the State, there would be no nation, and without a nation, no question of

⁹Paul Samuelson, *Economics*, 11th ed. (New York: McGraw-Hill, 1979), pp. 150–51.

national defense. This does not relieve us of the problem, but it does reduce it to the question of how a voluntary community can defend itself against a national state. Incidentally, it reminds us that the State itself produces malign externalities. Even more obviously, as I point out later, it generates free riders.

Jeffrey Hummel argues that voluntary organizations such as The Red Cross and (to use a local example) The Catholic Commission for Justice and Peace in Zimbabwe are not put off by the fact that they generate free riders.¹⁰ Hardly anyone helped by these organizations has ever donated goods or services to them, but such contributors as there are seem undeterred.

An even more startling example is voting, which Samuelson himself mentions. It costs something to vote. If nothing else, time, which always involves opportunity costs (the value of what you might be doing instead). Furthermore, it is ridiculous to imagine that the lost opportunities will be compensated by the effect your one vote will have on the outcome. This explains why many people do not vote; why is it that many do?

How do we explain the possibility of any voluntary organization which depends on donors, or, what Samuelson believes to be one of the few legitimate outlets for patriotic feeling, the vote? The most straightforward explanation for the possibility of such voluntary organizations, tax breaks aside, is that for a significant minority, benevolence (or some form of sublimated vanity) is strong enough to overcome their resentment of free riders. Hardly anyone gets a tax break for voting. Those who vote must be moved almost entirely by partisanship or patriotism, all the more astonishing in that both are misdirected.

The problem of how an anarchist community protects itself against national states thus reduces to the question of how, without coercion, one minimizes the number of free riders. Even the State cannot eliminate them. A voluntary scheme can count on a significant number of contributions from the start. If benevolence alone supports the Red Cross, then patriotism, voting, and fear will certainly inspire at least equal support for defense.

To further increase support, the scheme might take the form of an insurance policy offered by competing private insurance firms. Such

¹⁰Jeffrey Rogers Hummel, "National Goods Versus Public Goods: Defense, Disarmament, and Free Riders," *Review of Austrian Economics* 4 (1990), pp. 111–12.

a policy might require a minimum subscription level equal to that which, on the basis of a reasonable premium, would be necessary to support a minimally adequate defense. Those not satisfied with the level of defense thus achieved would be free to make further contributions. Pacifists and others wishing not to contribute would have already chosen not to do so.

Competition between firms would further increase subscriptions by minimizing premiums. Under such a scheme, aggressive warfare against other communities becomes almost impossible. Few would pay the premiums necessary to support the level of armament needed to support such adventures, and it would be in the interest of the insurance firms to head off conflict to prevent having to settle claims. Further, Hans-Hermann Hoppe argues that because the risk incurred by aggressors is voluntarily assumed, it is uninsurable; just as one cannot insure oneself against suicide, one cannot finance an attack upon Iraq through an insurance claim. Defense handled by competing insurance firms would, therefore, have a genuinely defensive bias. Finally, by automatically separating the protection of the State from the protection of society, such a scheme might further enhance its appeal. No longer would we witness the ruling class leaving everyone else virtually unprotected as it digs refuge for itself under granite mountains.¹¹

It might be thought that at least the institution of private property, which such firms represent, must be regarded as a public good. But there is no more reason to think that some fatal characteristic of private property makes it a public good than to believe that there is something mysterious about lighthouses that makes them public goods.¹² No one sees any logical problem with private insurance of private property. It is not hard to imagine an extension of such services complete with private adjudication firms in the end providing adequate support for the institution.

Finally, it is not merely because public goods happen to be fictional and prisoner's dilemmas often self-resolving that the State fails to have a legitimate function; it cannot be otherwise. The argument is a straightforward extrapolation of Ludwig von Mises's argument showing that rational economic calculation is impossible under State socialism. As

¹¹Hummel, "National Goods Versus Public Goods," p. 95.

¹²Involved here is some form of the foundationalist fallacy. When beguiled by thoughts of God, intuition, natural law, or the State as supports for private property or the market, a good way to disentrall oneself is to think of kites, not buildings.

Mises wrote, in a modern economy consisting of thousands of interrelated factories,

how will [a state socialist society] be able to decide whether this or that method of production is more profitable? At best it will only be able to compare the quality and quantity of the consumable end product produced, but will [only] in the rarest cases be in a position to compare the expenses entailed in production. It will know, or think it knows, the ends to be achieved by economic organization, and will have to regulate its activities accordingly, i.e., it will have to attain those ends with the least expense. It will have to make its computations with a view to finding the cheapest way. This computation will naturally have to be a value computation. It is eminently clear and requires no further proof, that it cannot be of a technical character, and that it cannot be based upon the objective use value of goods and services.

Mises then describes how this is accomplished in an “economic system of private ownership of the means of production”:

[T]he system of computation by value is necessarily employed by each independent member of society. Everybody participates in its emergence in a double way; on the one hand as a consumer and on the other as producer. As a consumer he establishes a scale of valuation for goods ready for use in consumption. As a producer he puts goods of a higher order into such use as produces the greatest return. In this way, all goods of a higher order receive position in the scale of valuations in accordance with the immediate state of social conditions of production and of social needs.

Mises then points to the fatal deficiency of state socialism in this regard by pointing out that while a socialist administration may be aware of the community’s most urgent needs,

Yet it cannot reduce this value to the uniform expression of a money price, as can a competitive economy, wherein all prices can be referred back to a common expression in terms of money. In a socialist commonwealth which whilst it need not of necessity dispense with money altogether, yet it finds it impossible to use money as an expression of the factors of production (including labor), money can play no role in economic calculation.¹³

¹³Ludwig von Mises, *Economic Calculation in the Socialist Commonwealth* (Auburn, Ala.: Ludwig von Mises Institute, 1990), pp. 22–24.

We might make the point differently using our prisoner's dilemma–public good framework. Socialist theory, at least Marxism, considers that the market is an n -person prisoner's dilemma. Profit-seeking and alienation prevent both the capitalist and the worker of making an optimal use of the goods and services that the market itself makes possible. The worker is doomed to increasing poverty, and pushed down to mere subsistence by increasing competition and the consequent struggle for surplus value on the part of his employer. In turn, the employer is harassed by competition and the consequent threat of being reduced to the proletariat himself. Both act in their own interests, but the market channels their efforts into a sub-optimal result.

It can be shown that this is sheer balderdash, but that is beside the point, which is that the socialist solution to this problem is to do away with the market—at least the market for the higher-order goods (factors of production) necessary to the production of consumer goods. Thus, under the socialist scheme, higher-order goods are turned into public goods.

According to Mises, this makes it impossible to calculate the value of higher-order goods since, without a market, there is no way money can serve as an aggregation of the subjective estimates of value which determine what, how much, at what time, and where such things as lathes, lumber, or pistons are to be produced. Such an aggregation involves the transformation of a large number of subjective valuations which can only be scaled ordinally into a single price system in which the resultant money values are scaled cardinally. In other words, we must go from a chaotic set of appraisals each of which represents an individual psychology responding in part to transient local conditions, such as the weather, the character of the local banker, or last month's harvests—appraisals which can be compared only as more or less—and arrive at a set of money prices in which we can say exactly how much more or less. Unless, on the basis of money price, we are able to say, e.g., not only that it is more urgent to produce pistons than lathes, but also to say how much more urgent, then rational allocation of the resources which must be devoted to both of these items is not in prospect. In order for these money prices to be non-arbitrary and grounded in reality, they must represent the vector sum of all the subjective and localized appraisals mentioned above.

The market brings into confrontation differing appraisals such that the better ones tend to prevail. Among those, the ones that most accurately estimate the cardinal value in terms of money price finally

succeed. The market thereby performs an absolutely unique function. The subjective foundation of the process cannot be duplicated or even convincingly simulated by the fastest and most capacious computer. It is a process invincibly resistant to handy summary in the form of static equations by which bureaucrats might hope to be guided. As the market process results in an array of cardinally scaled money prices, it has reduced, in a way nothing else can, chaotic demand and entrepreneurial effort to a set of numbers related in such a way as to enable firms to plan future production. Insofar as socialism abolishes or disables the market, it gives up any hope of rational economic planning.

The impossibility of rational socialist economic calculation is a special case of the impossibility of the rational State production or allocation of public goods. Recall the underproduction of lighthouses, and the similar shortage of medical care in every state-run medical scheme. Everywhere State police beat up the innocent, make deals with criminals, and demand higher appropriations. State-run welfare systems foster a malign collusion between bureaucrat and recipient, degrade the economy, and, by occasioning heavy taxation, impoverish some as they demoralize others. These are not aberrations awaiting more dedicated public servants, still more complicated regulations, or larger appropriations, despite the insistence of the defenders of both State socialism and the State. Rather, they are the malign externalities and free riders entailed by the fundamental inability of the gang which calls itself the State to resolve prisoner's dilemmas or, what comes to the same thing, produce or distribute public goods according to any rational set of values apart from its own interests.

This is more apparent when we consider State socialism only because the latter must reject money as the cardinal ordering through which economic calculations can be made. But it is obvious that something like a market can and does perform a similar function in what are usually thought to be political questions. Whether to have State ownership or private ownership of grocery stores is easy to decide because the performance of competitive firms is superior to that of coercive monopolies. Private police firms modeled after insurance companies are preferable to State law-enforcement monopolies for much the same reasons, to which might be added that the former have every incentive to *prevent* crime. State-run constabularies, by contrast, maximize appropriations by reacting to crime. The private provision of welfare is cheaper and better directed, since it does not double as vote buying. Some of these differences might even be in

part cardinalized, but certainly not as decisively as in the purely economic examples.¹⁴

I need not point out that Mises's argument is controversial. However, it offers the most plausible explanation of the socialist implosion of the late 1980s and early 1990s, and, aside from its intrinsic plausibility, has the merit of now floating happily on the economic mainstream.¹⁵

It is bad enough that the entity which calls itself the State cannot do what it must if it is to avoid being an imposter. What is worse is that it generates the malign predicaments necessary to the masquerade. The process is most evident in the extraordinary maneuvers by which States go to war (war being something for which States have a unique aptitude). Never missing are historical distortions and Manichean fantasies of virtue outraged. The mystique is enhanced, and the powers of Leviathan increased, not only for the occasion, but to make peace as planned and regulated as war itself. Indeed, peace ideally becomes a condition of permanent enthusiasm in which the State wages war against cancer, drugs, terrorists, etc., with gratifyingly little success aside from the increasing vigor which always accompanies exercise and good nourishment.¹⁶

¹⁴For a similar argument, see Hans-Hermann Hoppe, "The Private Production of Defense," *Journal of Libertarian Studies* 14, no. 1 (Winter 1998–1999), pp. 33–35.

¹⁵For recent favorable discussions of the calculation argument, see Don Lavoie, *Rivalry and Economic Planning* (Cambridge: Cambridge University Press, 1985); and David Ramsey Steele, *From Marx to Mises* (Lasalle, Ill.: Open Court, 1992). For an interesting dissent, see Allin Contrell and Paul W. Cockshott, "Calculation, Complexity, and Planning: The Socialist Calculation Debate Once Again," *Review of Political Economy* 5, no. 1 (1993).

¹⁶Woodrow Wilson's Aug. 2, 1917 speech calling for a declaration of war against Germany is both an incident in a case history of such a process and a description of its phases:

(a) Acquisition/Creation of a Prisoner's Dilemma: "American ships (were) sunk, American lives taken . . . [in] a warfare against all mankind . . . [against which] armed neutrality was impracticable." Another alternative is excluded as a matter of honor: "We will not choose the path of submission and suffer the most sacred rights of our nation and our people to be ignored or violated." The prisoners are identified as the American people (whose rights are ignored) and the German people (who, along with almost everyone else, must be liberated). The optimal resolution of the Prisoner's Dilemma can, thus, only

Health is best assured by a balanced diet, and green nourishment supplements the red. Brazil's government subsidizes clearance of its tropical forests, and then, with added means of enforcement, is judged indispensable to the salvation of those same forests.¹⁷ Ludditism with

be effected by the American State declaring war against the German State, thereby saving the American people from violation and the German people from the German State. The "sacred rights" to which Wilson refers were to be allowed passage on belligerent ships in combat zones carrying United States-manufactured munitions to only one of the belligerents.

(b) Bait, The Alleged Rewards of State Action: "Tragical" as it might be, Wilson held out the possibility of a magnificent outcome: "We are glad, now that we see the facts with no veil of false pretense about them, to fight thus for the ultimate peace of the world and the liberation of its peoples, the German peoples included: the rights of nations great and small and the privilege of men everywhere to choose their way of life and of obedience. The world must be made safe for democracy." This is not the place to describe the subsequent disappointment.

(c) Switch, "The Health of the State": The State at war could organize and mobilize "all the material resources of the country to supply the materials of war and serve the incidental needs of the nation." Similar organization and mobilization would be required "in rebuking and restraining the few (among German Americans) who may be of a different mind and purpose" and in answering disloyalty "with a firm hand of stern repression." No disappointment here.

(d) Consolidation: Mirage and Revision: If the gains under (c) are to be retained or at least eventually reacquired, it must be generally accepted that the initiative in question was inevitable or at least wise, and so the powers thereby acquired by the State were only natural. Orthodox history can be relied upon here, while revisionists can expect to be regarded as unsound or perhaps disloyal, and that alleged "disloyalty" presents new opportunities for a self-confident State. For a description of how this process further impoverishes a poor country see Leonard Brewster, "Zimbabwe: The Snake Eats its Tail," *Liberty* 13, no. 3 (March 1999), pp. 30–33.

Wilson's speech is widely reprinted, e.g., as an appendix to Ross Gregory, *The Origins of American Intervention in the First World War* (New York: W.W. Norton, 1971), pp 140–48. For a similar view of World War I whose emphasis is clear from the title, see Murray N. Rothbard, "World War I as Fulfillment: Power and the Intellectuals," *Journal of Libertarian Studies* 9, no. 1 (Winter 1989), pp 81–124.

¹⁷See Roger A. Sedjo, "Forests: Conflicting Signals," in *The True State of the Planet*, ed. Ronald Bailey (New York: Free Press, 1995), pp. 177–209. *The Economist* (June 30, 2001), pp 26–27, reports that the European Union is continuing to subsidize olives in direct proportion to the amount produced,

religious overtones successfully counters scientific doubt in convincing most people of anthropogenic global warming. The Kyoto Treaty is the preferred response as it increases the power of States and gives substance to the still shadowy Super State.¹⁸

A firm must drum up business; those that don't tend to be selected out. So it is with the State. Furthermore, just as firms might do better believing that they are serving some higher purpose, so might the State. Thus, we need not suppose that those who play this role see themselves as creating or aggravating problems just to remain employed and prosper. It is merely the duty of a successful "statesman" to manufacture a certain amount of disorder, and solemnly go through the motions of correcting it. If he can't really improve things, so much the better.

If there is no State, why does there appear to be one? As well ask, "There is no Hamlet, so who is that on the stage?" For an answer, we must resort to aesthetics. I suggest that politics is a form of degenerate drama with the State taking the leading role. The actor playing Hamlet is rigidly guided by plot; the statesman must improvise inspired by some contrived dilemma, with ideology doing poor service as a script. Such scripts have happy endings usually belied in production. No more than the actor is the statesman expected to mention such failures. In the one case it would be out of character; in the other, "impolitic."

Political stardom depends even more than its dramatic analogue on suspension of disbelief, willing or unwilling, and indeed the audience must in an almost literal sense identify with the State even as citizens have their pockets picked and are knocked about by the actors. Such mischief is, however, rarely attributed to the State, which yet takes credit for any imagined relief, thus permitting the show to go on.

Because the State fails in its essential function, it cannot and does not exist. Those who play the role, creating the illusion of its existence, can only do so as parasites upon a disorder largely of their own creation, which they cannot improve. Thus, the State has no aptitude for solving problems, and because of its very non-existence, has every incentive to create them.

so Europe faces deforestation and even water shortages resulting from the frantic planting of olive trees, and, not surprisingly, there is "a lake of olive oil." Both problems will doubtless invigorate the EU for years to come.

¹⁸See Robert C. Balling, Jr., "Global Warming: Messy Models, Decent Data, and Pointless Policy," in *The True State of the Planet*, pp. 83–107.

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ALL GOVERNMENT IS EXCESSIVE: A REJOINDER TO DWIGHT LEE’S “IN DEFENSE OF EXCESSIVE GOVERNMENT”

Walter Block*

Given Dwight Lee’s stalwart free enterprise credentials, it is more than passingly curious that the title of his 1998 Presidential Address to the Southern Economic Association was “In Defense of Excessive Government.”¹

After all, Lee is Professor of Economics and holder of the Bernard B. and Eugenia A. Ramsey Chair of Private Enterprise Economics at the University of Georgia. In addition to holding a named chair in “Private Enterprise Economics,” he is also the former president of the Association of Private Enterprise Educators, a group devoted to not only the study of markets, private enterprise, property rights, and capitalism, but one which

is largely, but not exclusively, made up of academic economists with strong free market views and strong skepticism of government actions (it started many years ago as an association of free enterprise chair holders but has expanded to include anyone with a strong free enterprise perspective).²

As well, Lee has been associated with another group that claims a market orientation, the Center for Study of Public Choice, both at George Mason University and at Virginia Polytechnic Institute & State University.

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¹See Dwight R. Lee, “In Defense of Excessive Government,” *Southern Economic Journal* 65, no. 4 (April 1999), pp. 675–90.

²Bruce Benson, current vice president of the Association of Private Enterprise Educators, in his letter of invitation to the 2002 APEE annual meeting.

Other like-minded organizations with which he is connected include the Mont Pelerin Society, the Center for the Study of American Business at Washington University, the Earhart Foundation, and the Olin Foundation. In his association with the Foundation for Economic Education, he writes a regular commentary on free enterprise economics, previously in *The Freeman*, and now for its *Ideas on Liberty*. To top it all off, he has been included on the free-enterprise-oriented Templeton Honor Roll for Education in a Free Society.

If there were any doubt that Lee has had a long and illustrious career in promoting and defending the institutions of economic freedom, a brief perusal of the titles of his publications in his three-dozen-page-long vitae will convince any reader otherwise. Nor is it controversial to claim that as well as being widely interpreted as an exponent of economic freedom, this author sees himself in precisely this light. In fact, Lee announces at the very outset of his article, "I don't have much practice defending government," and mentions

those with whom I have long identified, classical liberals working in the field of public choice who advocate if not a minimal government, certainly one that is limited far more than any existing democracy.³

All of this makes Lee's title incomprehensible, in that it would appear to be a 180-degree shift from nearly all of his past publication record. Further, the title is not a misnomer; Lee actually defends not only government intervention into the economy, but even intervention to an admittedly "excessive" degree.

Before I launch into a critique of this article, I would like to make several introductory remarks. First, I admire the extremism of this article. If one is going to defend government, why be a moderate? No, go "whole hog" and defend the most extreme version of this philosophy.⁴

Second, as a critic of the claims of the Public Choice School to be a spokesman for economic freedom and capitalism,⁵ I am delighted that

³Lee, "In Defense of Excessive Government," p. 675.

⁴I could hardly be expected to take any other position on the matter, as is shown by my book *Defending the Undefendable* (New York: Fox and Wilkes, 1991). Lee is consistent in this regard, in that he announces himself willing to "irritate almost everyone," another sentiment with which I am in complete accord. See Lee, "In Defense of Excessive Government," p. 675.

⁵See, e.g., Walter Block and Tom DiLorenzo, "Is Voluntary Government Possible? A Critique of Constitutional Economics," *Journal of Institutional and*

Lee announces himself as intending to “use arguments drawn from, and consistent with, the public choice perspective to make my case.”⁶ Of all those who explicitly defend public choice, Lee, alone in my opinion, clearly appreciates its (coercive) socialistic and interventionistic core. In contrast, all other advocates of this school of thought mistakenly see it as on the side of the free enterprise angels.⁷ In other words, if public choice underlies his essay, and it clearly does, then so much the worse for public choice.

Third, Lee writes “I certainly would not have written this article if it were going to be subjected to a rigorous review process.”⁸ This gives me pause; I would not want to criticize an ill-considered, half-thought-out article, preferring to “hold my fire” for the best work of an intellectual opponent. On the other hand, this was Lee’s 1998 Presidential Address to the Southern Economic Association, and does appear in the *Southern Economic Journal* (albeit without benefit of refereeing). Either of these considerations alone, and, certainly, both of them together, suggest that the article is “fair game” for criticism. In addition, authors are responsible for all of their work, including op-ed pieces, chapters in books, and published speeches, none of which are refereed.

Fourth, Lee announces that the reason he accepts, even urges, retaining admittedly inefficient government programs is because we cannot rid ourselves of them without also being forced to make do without being able to “secur(e) advantages that only government action can provide.” He writes that “to get government to provide things we want, like

Theoretical Economics 156, no. 4 (December 2000), pp. 567–82; Walter Block and Tom DiLorenzo, “The Calculus of Consent Revisited,” *Public Finance and Management*, forthcoming; and Tom DiLorenzo and Walter Block, “Constitutional Economics and the Calculus of Consent,” *Journal of Libertarian Studies* 15, no. 3 (Summer 2001). Also see Thomas J. DiLorenzo, “Competition and Political Entrepreneurship: Austrian Insights into Public Choice Theory,” *Review of Austrian Economics* 2 (1988), pp. 59–71; and Murray N. Rothbard, “Buchanan and Tullock’s *The Calculus of Consent*,” in *Applications and Criticism from the Austrian School*, vol. 2, *The Logic of Action* (Cheltenham, U.K.: Edward Elgar, 1997), pp. 269–74.

⁶Lee, “In Defense of Excessive Government,” p. 675.

⁷That Lee welcomes this (coercive) socialist core cannot properly be interpreted as a disparagement of this profound intellectual insight, although, to be sure, it calls into question his otherwise stellar pro-market credentials.

⁸Lee, “In Defense of Excessive Government,” p. 675.

the Washington Monument, we will have to put up with excessive spending on other government activities that cost more than they are worth.”⁹ In contrast, to foreshadow my rejoinder, I shall claim that there are no desirable goods or services that “only government action can provide,” and that, to the extent the public wishes to view things like the Washington Monument, the market is fully capable of providing them.¹⁰

Further, to the extent that it is true that “only government action can provide” certain things, this concerns mass murder¹¹ and only mass murder.¹² Every other government function (defense, courts, police, helping the poor, etc.) has been accomplished by private individuals.

Fifth, Lee is guilty of misusing several economic phrases (e.g., “rent seeking” and “collective action”), and correcting him on these matters would alone render worthwhile a response to his essay.

I shall now proceed with my critique of this very interesting essay, following Lee’s own outline.

⁹Lee, “In Defense of Excessive Government,” pp. 675, 676.

¹⁰The Disney Corporation and the hotel entrepreneurs of Las Vegas have erected far more spectacular structures than this; the Empire State Building alone puts it into the shade.

¹¹James Ostrowski, “Killers Kill the Killer,” *LewRockwell.com*, puts the number of civilians murdered by the U.S. government at 2,523,625. The greatest so-called private mass murderer in the U.S., Timothy McVeigh, killed fewer than 100 innocent people. However, I do not consider McVeigh a private killer. Rather, since he engaged in what is quintessentially a function of government, he should be seen in that light. A careful reading of Lysander Spooner, *No Treason* (1870; reprint, Larkspur, Colo.: Pine Tree Press, 1966), will convince the fair-minded reader that the two are indeed members of the same “industry.”

¹²Think soccer hoodlums armed with weapons of mass destruction. See on this Stephane Courtois, Nicols Werth, Jean-Louis Panne, Andrzej Paczkowski, Karel Bartosek, and Jean Louis Margolin, *The Black Book of Communism: Crimes, Terror, Repression*, trans. Jonathan Murphy and Mark Cramer (Cambridge, Mass.: Harvard University Press, 1999); R.J. Rummel, *Death by Government* (New Brunswick, N.J.: Transaction Publishers, 1994); R.J. Rummel, *Democide: Nazi Genocide and Mass Murder* (New Brunswick, N.J.: Transaction Publishers, 1992); and R.J. Rummel, *Statistics of Democide* (Charlottesville, Va.: Center for National Security Law, School of Law, University of Virginia, 1997). The “score” of millions of people killed is roughly the following: Mao’s China: 60; Stalin’s U.S.S.R.: 20; Hitler’s Germany: 10; Pol Pot’s Cambodia: 2. Thus, it can be seen that while the U.S. is a “player,” it is not at the top of the rogue’s gallery.

COMPARED TO WHAT?

In this section, Lee claims that just because there are “inevitable market failures” does not mean that government ameliorative action is justified, because the proper comparison or yardstick for commerce is not perfection. He then goes on, paraphrasing James Buchanan, to make the identical point with regard to the latter:

[my] argument might be taken as a criticism of the naiveté of both the market-failure welfare economists and the market-works-politics-fails stance of many modern public choice new neo-classical economists. By comparison with idealized standards, both markets and politics fail.¹³

In other words, rather than seeking a “moral equivalence” between market and state, Lee finds an “economic equivalence.” Both market and state have been unduly attacked, by, in effect, extremists of either side.¹⁴ Moderators of the ilk of Lee and Buchanan are needed to set the balance right by showing that *both* the critics of the market *and* the critics of the government are in error.

There are several problems with this analysis. Let us consider the concept of “market failure,” since Lee uses it as a stick with which to beat up on free enterprise. It cannot be denied that there is “market failure” in the sense that not every decision made by all businessmen will always be correct. There is, after all, such a thing as entrepreneurial error. If we are to include under the rubric of “businessmen” all economic actors, including employees, investors, savers, etc., then room for error expands even more. But this is not at all what is commonly meant by “market failure,” nor does it capture Lee’s understanding of it, which is fully compatible with common usage within the economics profession. This concept is not a synonym for mistakes made by human beings in their bartering and trucking activities. Instead, at least within the realm of professional economics, it signifies particular “failures,” such as monopoly, public goods, externalities, income inequality, discrimination, etc.

¹³Lee, “In Defense of Excessive Government,” p. 676; cf. James Buchanan, “Market Failure and Political Failure,” *Cato Journal* 8, no. 1 (Summer 1988), p. 12.

¹⁴Not, presumably, of the “good” kind of extremists as indicative of Lee’s philosophical stance, but of the “bad” kind who fail to agree with this “economic equivalence” perspective.

My point, in rejoinder, is that there is no such thing as market failure in this sense.¹⁵

¹⁵The idea of market failure has been thoroughly demolished in many places by many scholars. For a general overview, see Tyler Cowen, ed., *The Theory of Market Failure: A Critical Examination* (Fairfax, Va.: George Mason University Press, 1988).

On monopoly as market failure, see Dominick Armentano, *Antitrust and Monopoly: Anatomy of a Policy Failure* (New York: Wiley, 1982); Donald Armstrong, *Competition versus Monopoly: Combines Policy in Perspective* (Vancouver, B.C.: Fraser Institute, 1982); Walter Block, *Amending the Combines Investigation Act* (Vancouver, B.C.: Fraser Institute, 1982); Walter Block, "Austrian Monopoly Theory—A Critique," *Journal of Libertarian Studies* 1, no. 4 (Fall 1977), pp. 271–79; Walter Block, "Total Repeal of Anti-Trust Legislation: A Critique of Bork, Brozen, and Posner," *Review of Austrian Economics* 8, no. 1 (1994), pp. 35–70; William Barnett and Jerry Dauterive, "A Property Rights Approach to Natural Monopoly" (paper presented at the annual meeting of the Southern Economic Association, 1985); Thomas J. DiLorenzo, "The Myth of Natural Monopoly," *Review of Austrian Economics* 9, no. 2 (1997), pp. 43–58; Jack High, "Bork's Paradox: Static vs. Dynamic Efficiency in Antitrust Analysis," *Contemporary Policy Issues* 3 (1984–1985), pp. 21–34; Fred McChesney, "Antitrust and Regulation: Chicago's Contradictory Views," *Cato Journal* 10 (1991); Murray N. Rothbard, *Man, Economy, and State* (Los Angeles: Nash, 1970); William F. Shugart, II, "Don't Revise the Clayton Act, Scrap It!" *Cato Journal* 6 (1987); and Fred L. Smith, Jr., "Why Not Abolish Antitrust?" *Regulation* (January–February 1983).

On externalities, spillovers, and public goods, see Hans-Hermann Hoppe, "Fallacies of the Public Goods Theory and the Production of Security," in *Economics and Ethics of Private Property: Studies in Political Economy and Philosophy* (Boston: Kluwer, 1993); Hans-Hermann Hoppe, *The Private Production of Defense* (Auburn, Ala.: Ludwig von Mises Institute, 1998); Jeffrey Rogers Hummel, "National Goods vs. Public Goods: Defense, Disarmament, and Free Riders," *Review of Austrian Economics* 4 (1990), pp. 88–122; Walter Block, "Public Goods and Externalities: The Case of Roads," *Journal of Libertarian Studies* 7, no. 1 (Spring 1983), pp. 1–34; Walter Block, "The Justification of Taxation in the Public Finance Literature: A Critique of Atkinson and Stiglitz, Due, Musgrave and Shoup," *Journal of Public Finance and Public Choice* 3 (Fall 199), pp. 141–58; Walter Block, "Canadian Public Finance Texts Cannot Justify Government Taxation: A Critique of Auld & Miller; Musgrave, Musgrave, & Bird; McCready; and Wolf," *Canadian Public Administration* 36, no. 1 (Fall 1993), pp. 225–62.

Other so-called "market failures," such as inequality of wealth and racial and sexual discrimination, are hardly worth citing in this context.

Second, even if there were such a valid concept, Lee's assertion can not be maintained. To show this, let us grant his claim that markets fail compared to some ideal situation that exists in the never-never land of neoclassical texts. Typically, this is the world of perfect competition. This makes it curious that Lee supportively cites Bork's extremely well-founded and insightful statement:

A determined attempt to remake the American economy into a replica of the textbook model of competition would have roughly the same effect on national wealth as several dozen strategically placed nuclear explosions.¹⁶

But if perfect competition is not the standard Lee uses to find free enterprise wanting, then to what *would* he contrast it to achieve this end?

In sharp contrast, one does not need any such ideal to call into question governmental actions. The state stands condemned in and of itself, once it is realized that the public sector is based upon coercion. Indeed, government is the institutionalization of "coercion," as Lee himself acknowledges.¹⁷ But if this is so, it raises a per se difficulty with these institutional arrangements, one which simply does not arise in markets.

If Mr. A trades an apple for Mr. B's berries, then each is made better off in the ex ante sense of anticipations. That is, neither would have agreed to the trade had not A preferred berries to apples, and B preferred apples to berries. A's profit is the difference to him between his valuations of the higher-ranked berries and the lower-ranked apples. B's profit, likewise, is the divergence in value to him between the more-valued apples and the less-valued berries. In every voluntary transaction, we can infer that all participants are better off, or else they would not participate. So much for markets.¹⁸

In the public sector, things are very different. Here, we may suppose that a tax of \$100 is levied against Mr. C that will allow the government to engage in a service, call it mosquito abatement. Can we infer from this transaction that Mr. C values the service more than the costs? That he, for example, gains \$150 from the spraying of swamps, and thus

¹⁶Lee, "In Defense of Excessive Government," p. 677; Robert H. Bork, *The Antitrust Paradox: A Policy at War with Itself* (New York: Basic Books, 1978), p. 92.

¹⁷Lee, "In Defense of Excessive Government," pp. 677, 678, and 683.

¹⁸Robert Nozick, *Anarchy, State, and Utopia* (New York: Basic Books, 1974), p. 163, has characterized them as the embodiment of "capitalist acts between consenting adults."

earns a profit of \$50? In a word, no. This transaction is a coercive one, not a voluntary one,¹⁹ so there need not be mutual gains.

Thus, to find fault with the free market, one has to create idealized models against which to compare the free market. We do not need to resort to any such concept as an “ideal government” to find fault with our own real government. To the contrary, governments stand condemned since they are intrinsically coercive, and for that reason alone are “economic failures.”

THE “INVISIBLE HAND” BEHIND RENT-SEEKING WASTE

There is perhaps no greater misnomer in all of economics than “rent-seeking” as employed by the Public Choice school, since, by that term, they mean nothing less than theft: the seizure, by force or the threat of force, of other people’s property. Given that this is the case, and that Lee himself characterizes government behavior as “coercion,”²⁰ a far more descriptive phraseology for this behavior would be “booty seeking” or “theft seeking” or “piracy seeking” or “robbery seeking” or “larceny seeking.” As it stands, “rent seeking” is an unwarranted attack on the ancient and honorable profession of garnering land, housing, or property rent, or, as in profit seeking, an attempt to gain economic rent. Lee admits that “the term ‘rent seekers’ is commonly used as a pejorative.”²¹ Why should such an innocent activity as seeking rent be used to depict something so highly problematic?

¹⁹Some might argue that under democracy, the *society*, rather than the *individual*, has voluntarily acquiesced to this transaction. However, the institution of democracy is not without its critics. See Hans-Hermann Hoppe, “The Political Economy of Monarchy and Democracy and the Idea of a Natural Order,” in *Values and the Social Order*, ed. Gerard Radnitzky, vol. 3 (Aldershot: Avebury, 1997); Hans-Hermann Hoppe, “Time Preference, Government, and the Process of De-Civilization—From Monarchy to Democracy,” *Journal des Economistes et des Etudes Humaines* 4, no. 2 (1994), reprinted in John V. Denson, ed., *The Costs of War: America’s Pyrrhic Victories* (New Brunswick, N.J.: Transaction Publishers, 1997); and Hans-Hermann Hoppe, *Democracy, the God that Failed: The Economics and Politics of Monarchy, Democracy, and Natural Order* (New Brunswick, N.J.: Transaction Publishers, 2001).

²⁰Lee, “In Defense of Excessive Government,” pp. 677, 678, and 683.

²¹Lee, “In Defense of Excessive Government,” p. 677.

Private Interest Dominates the Political Process

A more substantive difficulty with Lee's treatment is that in his attempt to "defend . . . rent seekers" he erroneously equates this activity with "self interest."²² Now a "great insight" of the Public Choice School is that people do not sprout angel's wings when they enter government service; rather, they take their self-interest right along with them into the bureaucracy. But to identify self-interest and "booty seeking" is to commit a serious logical error. As Adam Smith has shown, self-interest in the private sphere leads, through the invisible hand, to good effects. It is quite a leap in logic, however, to posit a similar phenomenon under statism. There is a world of difference between theft and self-interest, despite the fact that among the criminal class, the latter leads to the former. Similarly, sexual obsession can provoke rape, but we can certainly distinguish between the two phenomena.

It is as a result of these musings that Lee brings himself to declare that "we should (not be) particularly offended by rent seekers."²³ While he attempts to mitigate this rather ill-considered statement, he succeeds only partially,²⁴ and contents himself with noting that markets are more congruent with consumer desires than are political systems. But the problem goes far deeper than that. If we are correct in identifying "rent seeking" with outright (albeit legalized) theft, then to say that we should not be offended by "rent seekers" is to say that we should not be offended by robbers, provided that they have obtained warrants for their actions from legislatures.²⁵

The Problem of Providing Public Goods

Lee maintains that "market incentives leave . . . public goods . . . greatly underprovided, if provided at all." This is problematic in that this author goes out of his way to present us with a joke: "How's your wife? Compared to whom?" The point is that economists think naturally in terms of alternatives, and that "pointing out that something is flawed is not a meaningful criticism of it unless better alternatives are possible."²⁶

²²Lee, "In Defense of Excessive Government," p. 678.

²³Lee, "In Defense of Excessive Government," p. 678.

²⁴Lee, "In Defense of Excessive Government," p. 678, note 3.

²⁵The Nazi incarceration of Jews was perfectly legal under German law of the time. This hardly renders it inoffensive.

²⁶Lee, "In Defense of Excessive Government," pp. 678, 676.

Yet, in the present context, Lee is doing precisely what he warned us against with his joke. He is pointing out that with markets, public good production is sub-optimal. In the spirit of his joke, we may reply, "So what?" Unless Lee can show that government, with all the flaws in it that he himself acknowledges, is an *improvement* over allegedly imperfect markets in this regard, his carping amounts to naught, by his own admission. But he does not even attempt to show this, let alone succeed in so doing.

Lee's claim that markets will under-optimally provide public goods may sound all right to the economic ear, but this is only because sentiments of this sort have continuously been drummed into our ears as undergraduates, graduate students, and beyond. Actually, for a profession that prides itself on basing all claims on empirical support,²⁷ Lee's claim, pivotal to his thesis, is embarrassingly short on statistical verification. Moreover, there is not a single solitary good or service characterized as a "public good" that has not been provided privately.²⁸ The common list of public goods provided privately includes defense (handled by private police forces and detective agencies),²⁹ courts and a judicial system (via such organizations as the American Arbitration Association),³⁰ roads

²⁷The Austrian school of economics is an honorable exception to this rule.

²⁸With the exception of murder on a mass scale, as discussed above.

²⁹See Terry Anderson and P.J. Hill, "An American Experiment in Anarcho-Capitalism: The *not* so Wild, Wild West," *Journal of Libertarian Studies* 3, no. 1 (1979), pp. 9–29; Hoppe, "The Private Production of Defense," pp. 27–52; Murray N. Rothbard, *For A New Liberty* (New York: Macmillan, 1978); Edward Stringham, "Justice Without Government," *Journal of Libertarian Studies* 14, no. 1 (Winter 1998–1999), pp. 53–77; and Patrick Tinsley, "Private Police: A Note," *Journal of Libertarian Studies* 14, no. 1 (Winter 1998–1999), pp. 95–100.

³⁰For the general case that law, justice, courts, etc., could be provided in the absence of government, see Randy E. Barnett, *The Structure of Liberty: Justice and the Rule of Law* (Oxford: Clarendon Press, 1998); Bruce L. Benson, "Enforcement of Private Property Rights in Primitive Societies: Law Without Government," *Journal of Libertarian Studies* 9, no. 1 (Winter 1989), pp. 1–26; Lisa Bernstein, "Opting out of the Legal System: Extralegal Contractual Relationships in the Diamond Industry," *Journal of Legal Studies* 21 (1992); Alfred G. Cuzán, "Do We Ever Really Get Out of Anarchy?" *Journal of Libertarian Studies* 3, no. 2 (Summer, 1979); Anthony de Jasay, *Against Politics: On Government, Anarchy, and Order* (London: Routledge, 1997); David Friedman, *The Machinery of Freedom: Guide to a Radical Capitalism*, 2nd ed. (La Salle,

and highways (provided by private firms, private communities, and other entities),³¹ lighthouses (provided by longshoremen's associations

Ill.: Open Court, 1989); Gillian K. Hadfield, "Privatizing Commercial Law," *Regulation* 24, no. 1 (Spring 2001), pp. 40–45; Hans-Hermann Hoppe, *A Theory of Socialism and Capitalism: Economics, Politics, and Ethics* (Boston: Kluwer, 1989); Hans-Hermann Hoppe, *The Economics and Ethics of Private Property: Studies in Political Economy and Philosophy* (Boston: Kluwer, 1993); N. Stephan Kinsella, "Legislation and the Discovery of Law in a Free Society," *Journal of Libertarian Studies* 11 (Summer 1995); Jonathan Macey and Maureen O'Hara, "Regulating Exchanges and Alternative Trading Systems: A Law and Economics Perspective," *Journal of Legal Studies* 18 (1999); Murray N. Rothbard, "Society Without a State," in *Anarchism: Nomos XIX*, ed. J.R. Pennock and J.W. Chapman (New York: New York University Press, 1978), pp. 191–207; Aeon J. Skoble, "The Anarchism Controversy," in *Liberty for the 21st Century: Essays in Contemporary Libertarian Thought*, ed. Tibor Machan and Douglas Rasmussen (Lanham, Md.: Rowman and Littlefield, 1995), pp. 77–96; Larry J. Sechrest, "Rand, Anarchy, and Taxes," *Journal of Ayn Rand Studies* 1, no. 1 (Fall 1999), pp. 87–105.

³¹David T. Beito, "From Privies to Boulevards: The Private Supply of Infrastructure in the United States during the Nineteenth Century," in *Development by Consent: The Voluntary Supply of Public Goods and Services*, ed. Jerry Jenkins and David E. Sisk (San Francisco: Institute for Contemporary Studies, 1993), pp. 23–48; Walter Block, "Free Market Transportation: Denationalizing the Roads," *Journal of Libertarian Studies* 3, no. 2 (Summer 1979), pp. 209–38; Walter Block, "Congestion and Road Pricing," *Journal of Libertarian Studies* 4, no. 3 (Fall 1980), pp. 299–330; Walter Block, "Public Goods and Externalities: The Case of Roads," *Journal of Libertarian Studies* 7, no. 1 (Spring 1983), pp. 1–34; Walter Block, "Theories of Highway Safety," *Transportation Research Record* #912 (1983), pp. 7–10; Walter Block, "Road Socialism," *International Journal of Value-Based Management* 9 (1996), pp. 195–207; Walter Block and Matthew Block, "Roads, Bridges, Sunlight, and Private Property Rights," *Journal des Economistes et des Etudes Humaines* 7, nos. 2/3 (June–September 1996), pp. 351–62; Walter Block, "Roads, Bridges, Sunlight, and Private Property: Reply to Gordon Tullock," *Journal des Economistes et des Etudes Humaines* 8, nos. 2/3 (June–September 1998), pp. 315–26; Fred Foldvary, *Public Goods and Private Communities: The Market Provision of Social Services* (Aldershot, England: Edward Elgar, 1994); Michelle Cadin and Walter Block, "Privatize the Public Highway System," *The Freeman* 47, no. 2 (February 1997), pp. 96–97; John M. Cobin, "Market Provisions of Highways: Lessons from Costanera Norte," *Planning and Markets* 2, no. 1 (September 1999); Dan Klein, John Majewski, and C. Baer, "Economy, Community, and the Law: The Turnpike Movement in New York, 1797–1845," *Journal of Economic History* (March 1993), pp. 106–122; Dan Klein and G.J. Fielding,

or dock owners),³² mosquito spraying, welfare (through private charities including churches and non-profit organizations),³³ and more. As for markets providing less than optimal amounts of these goods and services, Lee, as well as the entire economics profession, has yet to provide any criterion for optimality other than mere “blackboard economics” (we are all familiar with marginal, average, and total private and social utility and cost curves).

However, a basic postulate of neoclassical economics is that its tenets are made up of falsifiable propositions. Yet, no such set of clearly falsifiable propositions has been offered, or can be offered, not least because of the essential subjectivity of cost and utility.³⁴ Nor does Lee even attempt to meet this challenge. Not only does he not specify any empirical measure for optimal government involvement in the economy, he also eschews any attempt to define a criterion for determining this measure. In this regard, he joins forces with that other advocate of free

“How to Franchise Highways,” *Journal of Transport Economics and Policy* (May 1993), pp. 113–30; Bertrand Lemennicier, “La Privatisation des rues,” *Journal Des Economistes et des Etudes Humaines* 7, no. 2/3 (June–September 1996), pp. 363–76; and John Semmens, “Intraurban Road Privatization,” *Transportation Research Record* 1107 (1987).

³²The classic article on this topic is Ronald H. Coase, “The Lighthouse in Economics,” *Journal of Law and Economics* 17 (1974), pp. 357–76. For an argument that Coase has not succeeded in showing that markets can provide lighthouse services, the opinion on this matter of most economists notwithstanding, see William Barnett, II and Walter Block, “Coase and Van Zandt on Lighthouses,” (Loyola University New Orleans, photocopy).

³³See Rothbard, *For a New Liberty*; Mark Hughes, review of *The Nonprofit Sector: A Research Handbook*, ed. Walter W. Powell, *The Philanthropist* 7, no. 4 (Summer 1988), pp. 61–65; and Mark Hughes, “Counterpoint: A Response to Bennet and DiLorenzo,” *The Philanthropist* 9, no. 3 (Fall 1990), pp. 43–56.

³⁴Nobel-prize-winning economist James Buchanan, in his Austrian persona, is fully aware of subjectivism. See, e.g., James M. Buchanan and G.F. Thirlby, *L.S.E. Essays on Cost* (New York: NYU Press, 1981); and James M. Buchanan, *Cost and Choice: An Inquiry into Economic Theory* (Chicago: Markham, 1969). See also Ludwig von Mises, *Human Action*, 3rd rev. ed. (Chicago: Regnery, 1966); Rothbard, *Man, Economy, and State*; and William Barnett, II, “Subjective Cost Revisited,” *Review of Austrian Economics* 3 (1989), pp. 137–38. It is too bad that when Buchanan wears his Public Choice hat, he forgets all about his qualifications and scientific modesty in this regard. On this, see footnote 5, above.

enterprise, John Kenneth Galbraith, who was forever complaining about niggardliness in the public sector, and opulence in the private.³⁵

In behalf of the ballot box vote, Lee writes that “preferences are communicated candidly,” since there need be no fear of “being exploited by free riders.”³⁶ Both of these declarations are suspect.

As far as candidness is concerned, Lysander Spooner had the following to say:

[V]oting is not to be taken as proof of consent. . . . On the contrary, it is to be considered that, without his consent having even been asked, a man finds himself environed by a government that he cannot resist; a government that forces him to pay money, render service, and forego the exercise of many of his natural rights, under peril of weighty punishments. He sees, too, that other men practice this tyranny over him by the use of the ballot. He sees further, that, if he will but use the ballot himself, he has some chance of relieving himself from this tyranny of others, by substituting them to his own. In short, he finds himself, without his consent, so situated that, if he use the ballot he may become a master; if he does not use it, he must become a slave. And he has no other alternative than these two. In self-defense, he attempts the former.³⁷

As concerns free riders, Lee has no way of demonstrating that any exist, nor, if this hurdle can somehow be overcome, that entrepreneurs cannot internalize any ensuing externalities. Instead, the author implicitly assumes that they exist and cannot be overcome in this manner. Yet, logically, this is not enough. If free riders do exist, then we are all free riders. For example, we all benefit from the existence of Mozart, but none of us have ever lifted a hand to help him. That is simply a part of civilization. To turn this into a market failure is highly problematic.

Lee writes the following: “without government action, we would find ourselves with less national defense, less crime prevention, and less

³⁵John Kenneth Galbraith, *The Affluent Society* (Boston: Houghton-Mifflin, 1958).

³⁶Lee, “In Defense of Excessive Government,” p. 679. Yet, no sooner does he make this claim than he attempts to moderate it to a degree by his characterization of this view as “simplistic.” Further, his discussion of “expressive voting” constitutes another qualification. Nonetheless, Lee does not completely divorce himself from this viewpoint.

³⁷Spooner, *No Treason*, p. 15.

environmental quality than we have.”³⁸ Absent statistical justification, such a claim seems very rash. Indeed, the truth would appear to be the very opposite. For example, with the advent of the movie “Pearl Harbor” and several critical reviews of it, even the meanest intelligence is finally becoming aware of the fact that it was FDR, running on a “peace” platform,³⁹ who incited the Japanese into waging war on the United States.⁴⁰ Likewise, it was the U.S. government, recklessly ignoring President George Washington’s insightful “Farewell Address” where he warned of “entangling alliances” and foreign adventurism, which got us into World War I, the Korean “police action,” Viet Nam, and altogether too many other invasions of foreign countries in recent days to even mention. This is “national defense?” A case can easily be made to the effect that it is the very opposite: *offense*.

Further, the state is, on net balance, a creator of crime, not a preventer of it, even if we do not count its own acts as criminal. To consider a single case, the prohibition of drugs calls into serious question the direction of causation between the public sector and crime.⁴¹ Then, too, government categorizes so many victimless “crimes” as illegal,

³⁸Lee, “In Defense of Excessive Government,” p. 679.

³⁹Old joke: How can you tell if a politician is lying? If he moves his lips. So much for Lee’s claim about “preferences [being] communicated candidly.” How can they be communicated candidly if politicians lie?

⁴⁰See, e.g., Robert B. Stinnett, *Day of Deceit: The Truth about FDR and Pearl Harbor* (New York: Touchstone, 1999).

⁴¹See Block, *Defending the Undefendable*, pp. 39–49; Walter Block, “Drug Prohibition: A Legal and Economic Analysis,” *Journal of Business Ethics* 12 (1993), pp. 107–18; Walter Block, “Drug Prohibition, Individual Virtue, and Positive Economics,” *Review of Political Economy* 8, no. 4 (October 1996), pp. 433–36; David Boaz, ed., *The Crisis in Drug Prohibition* (Washington, D.C.: Cato Institute, 1990); Meaghan Cussen and Walter Block, “Drug Legalization: A Public Policy Analysis,” *American Journal of Economics and Sociology* 59, no. 3 (July 2000), pp. 525–36; Milton Friedman, “An Open Letter to Bill Bennett,” *Wall Street Journal* (September 7, 1989); Ronald Hamowy, ed., *Dealing with Drugs: The Consequences of Government Control* (San Francisco: The Pacific Institute, 1987); Rothbard, *For A New Liberty*; Thomas Szasz, *Ceremonial Chemistry: The Ritual Persecution of Drugs, Addicts and Pushers* (Holmes Beach, Fl.: Learning Publications, 1985); Thomas Szasz, *Our Right to Drugs: The Case for a Free Market* (New York: Praeger, 1992); and Mark Thornton, *The Economics of Prohibition* (Salt Lake City: University of Utah Press, 1991).

each of which is responsible for yet more crime and “less crime prevention.” Under this rubric, we must count laws against gambling, prostitution, markets in body parts,⁴² pornography, and the prohibition of alcohol during previous epochs.

What of environmental protection? Here, too, it is difficult to make the case that the government is the solution, not the problem, Lee to the contrary notwithstanding. The state contributes to environmental despoliation in many ways. It contributes to the “tragedy of the commons” through the sheer extent of its land holdings,⁴³ and by not allowing for the privatization of endangered species. It exacerbates air pollution by not interpreting such behavior as trespass against private property.⁴⁴ Its much-vaunted so-called market-based solutions, tradable emissions rights, are but variants of socialism, and, thus, vulnerable to the familiar arguments against central planning.⁴⁵ If Lee wishes to base his defense

⁴²On the case for a free market in this field, see, e.g., Andy H. Barnett, T. Randolph Beard, and David L. Kaserman, “Scope, Learning, and Cross-Subsidy: Organ Transplants in a Multi-Division Hospital—An Extension,” *Southern Economic Journal* 62, no. 3 (January 1996), pp. 76–67; William Barnett, II, Michael Saliba, and Deborah Walker, “A Free Market in Kidneys: Efficient and Equitable,” *Independent Review* 5, no. 3 (Winter 2001); William Barnett, “The Market for Used Human Body Parts,” *The Free Market* 6, no. 2 (1988); Walter Block, Roy Whitehead, Clint Johnson, Mana Davidson, Alan White, and Stacy Chandler, “Human Organ Transplantation: Economic and Legal Issues,” *Quinnipiac College School of Law Health Journal* 3 (1999–2000), pp. 87–110; and Walter Block, “The Case for a Free Market in Body Parts,” in *Essays in the Economics of Liberty: The Free Market Reader*, ed. Lewellyn Rockwell (Auburn, Ala.: Ludwig von Mises Institute, 1988), pp. 266–72.

⁴³See Walter Block, “Environmental Problems, Private Property Rights Solutions,” in *Economics and the Environment: A Reconciliation*, ed. Walter Block (Vancouver, B.C.: Fraser Institute, 1990), pp. 282–322.

⁴⁴Murray N. Rothbard, “Law, Property Rights, and Air Pollution,” in *Economics and the Environment: A Reconciliation*, ed. Walter Block (Vancouver, B.C.: Fraser Institute, 1990); and Morton J. Horwitz, *The Transformation of American Law: 1780–1860* (Cambridge, Mass.: Harvard University Press, 1977).

⁴⁵See Jerry W. Dauterive, William Bennett, and Everett White, “A Taxonomy of Government Intervention,” *Journal of the Southwestern Society of Economists* (1985). Also see Robert W. McGee and Walter Block, “Pollution Trading Permits as a Form of Market Socialism, and the Search for a Real Market Solution to Environmental Pollution,” *Fordham University Law and Environmental Journal* 6, no. 1 (Fall 1994), pp. 51–77.

of government upon its provision of environmental amenities, he will have a tough row to hoe.

Even if it were the case that government made a positive net contribution to national defense, protection against crime, and promoting environmental quality, how can we account for his view that all this can be attained for “*certainly* less than people desire at the cost of providing them?”⁴⁶ Whence springs all the certainty? Without markets, one would have thought we were at sea without a rudder; there would no way of determining whether the citizens value government’s “contributions” more than its costs. Implicitly, Lee has a method for determining this, but he seems curiously unwilling to vouchsafe this method to the rest of us.

In his effort to be even handed and balanced, Lee concedes that “public provision of public goods is plagued with the same type of free-rider problems as private provision.”⁴⁷ He mentions in this regard “rational ignorance” and “expressive voting.” This is all well and good as far as it goes, but it does not go far enough. Another advantage enjoyed by the dollar vote vis-a-vis the ballot box vote is that in the former but not the latter system, there are entrepreneurs with an invisible hand incentive to internalize externalities. If and to the extent that the concept of spill-over effects is a coherent one,⁴⁸ markets can solve them.

In fact, it is no exaggeration to say that such “market failures” stem not from the market itself, but from failures to allow private property to extend far enough. For example, the so-called external economy offered by traffic lights to motorists or by street lights to passers-by is solely a function of the fact that roads, highways, and streets are owned and managed by the public sector in the first place. Were this not the case, that is, were these amenities allowed to be offered to customers by entrepreneurs, the entire difficulty would vanish in a trice. Traffic and street lights would be provided as they now are, by private gated communities, super markets, shopping malls, etc. Disneyland, for example, is not exactly bereft of this type of street furniture, and all of it comes

⁴⁶Lee, “In Defense of Excessive Government,” p. 679, emphasis added.

⁴⁷Lee, “In Defense of Excessive Government,” p. 679.

⁴⁸This is a perfectly rational concept in ordinary language, but not in technical economics. For more on this see Walter Block, “On Robert Nozick’s ‘On Austrian Methodology’,” *Inquiry* 23, no. 4 (Fall 1980), pp. 397–444; and Walter Block, “Austrian Theorizing: Recalling the Foundations,” *Quarterly Journal of Austrian Economics* 2, no. 4 (Winter 1999), pp. 21–39.

entirely courtesy of the voluntary sector. There is not one modicum of coercion involved, as occurs via government roads.

The essence of Lee's thesis is that

because transmitting demands for public goods to government suppliers is so difficult, not only is much of this waste [excessive and inefficient government programs] understandable, it can also serve a useful purpose. . . . Attempts to reduce the inefficiency that comes inevitably with supplier control over providing public goods can easily result in greater inefficiency by reducing the amount of public goods provided.⁴⁹

Difficulties abound, here. For one thing, in the absence of voluntary markets, we never have incontrovertible evidence that consumers wish to have public goods at their disposal. Consider a park in this regard. If it is private, and if the enterprise shows a profit, then we know that customers value this amenity more than the cost of bringing it to them. But in the case of the public park, we know no such thing, and cannot know it. In a democracy, all we know is that certain people were forced, either directly or indirectly on the basis of tyranny of the majority, to pay for this park. Some of them may even use it. But there is no preference that can be objectively revealed, demonstrating for one and all to see, that the people value the park more than its alternative costs.⁵⁰

For another, markets are perfectly capable of providing any and all goods and services characterized by Lee as "public." Firms may not do so to the extent that Lee deems optimal, but, as he never offers any criterion on the basis of which this may be objectively judged, we are justified in ignoring him on this point, just as we do with Galbraith, and for similar reasons on similar issues.

For a third thing, there is no logical stopping point in this thesis. If we take it at face value (and how else can we take it), the theory can justify *any* level of government intervention.⁵¹ Once allow the cloven hoof of admittedly excessive state depredations with no stipulated stopping

⁴⁹Lee, "In Defense of Excessive Government," p. 680.

⁵⁰Murray N. Rothbard, "Toward a Reconstruction of Utility and Welfare Economics," in *Method, Money, and the Austrian School*, vol. 1 of *The Logic of Action* (Cheltenham, U.K.: Edward Elgar, 1997).

⁵¹See Dauterive, Bennett, and White, "A Taxonomy of Government Intervention."

point, where does it end? It can theoretically culminate with 100% totalitarian government, of the sort the bad old USSR only dreamed about.

The Case of the Military-Industrial Complex

In this section, Lee tries to show that even the vast waste attendant upon the Military-Industrial Complex (MIC) can be justified. After all, without this great inefficiency, which is accounted for by the “rent seeking” payment which goes to the bureaucrats responsible for it, we would not have an army at all, or far too small an army, and that would be intolerable. Lee writes: “The case for the MIC then is based on the very real possibility that it is better to have an adequate supply of national defense at excessive cost than an inadequate supply at least cost.”⁵²

This sounds as if he makes these things up as he goes along. How does Lee know this is so? How can he defend against the claim that on the contrary, it is better to have a (slightly) inadequate supply of national defense at (moderate) cost than a (fully) adequate supply at (gargantuan excessive) cost? What ever happened to marginal analysis? Surely, Lee would agree that if we devoted 100% of the GDP to defense, and none to food, and we all died as a result, that this would be inferior to a situation where we had an army slightly too small for our needs, but plenty of food. But this directly contradicts his statement.

Another problem is that only in the market can such marginal costs and benefits be compared with one another. Under ballot box voting, with no prices emanating from the process, it is impossible to make such comparisons. This is precisely the problem of central planning, which underlies the Austrian case against all such institutions.⁵³ Lee

⁵²Lee, “In Defense of Excessive Government,” p. 681.

⁵³See on this Dominick T. Armentano, “Resource Allocation Problems Under Socialism,” in *Theory of Economic Systems*, ed. William P. Snavely (New York: Charles E. Merrill, 1969); Walter Block, “Socialist Psychology: Values and Motivations,” *Cultural Dynamics* 5, no. 3 (1992), pp. 260–86; Peter J. Boettke, “The Austrian Critique and the Demise of Socialism: The Soviet Case,” in *Austrian Economics: Perspectives on the Past and Prospects for the Future*, vol. 17, ed. Richard M. Ebeling (Hillsdale, Mich.: Hillsdale College Press, 1991), pp. 181–232; Günther K. Chaloupek, “The Austrian Debate on Economic Calculation in a Socialist Economy,” *History of Political Economy* 22, no. 4 (1990), pp. 659–75; David A. Conway, *A Farewell to Marx: An Outline and Appraisal of His Theories* (Middlesex, England: Penguin Books,

doesn't know, and cannot know, that the market is out of balance in this regard. He must ever be blind to the issue of whether or not the government allocates resources in the manner he describes.⁵⁴

1987); Raimondo Cubeddu, *The Philosophy of the Austrian School* (New York: Routledge, 1993), pp. 109–58; James Dorn, "Markets True and False in Yugoslavia," *Journal of Libertarian Studies* 2, no. 3 (Fall 1978), pp. 243–68; Richard M. Ebeling, "Economic Calculation Under Socialism: Ludwig von Mises and His Predecessors," in *The Meaning of Ludwig von Mises*, ed. Jeffrey Herbener (Norwell, Mass.: Kluwer Academic Press, 1993), pp. 56–101; Nicolai Juul Foss, "Information and the Market Economy: A Note on a Common Marxist Fallacy," *Review of Austrian Economics* 8, no. 2 (1995), pp. 127–36; David Gordon, *Resurrecting Marx: The Analytical Marxists on Freedom, Exploitation, and Justice* (New Brunswick, N.J.: Transaction Publishers, 1990); Friedrich A. Hayek, "The New Confusion About Planning," *New Studies in Philosophy, Politics, Economics, and the History of Ideas* (Chicago: University of Chicago Press, 1978), pp. 232–46; Robert Heilbroner, "Analysis and Vision in the History of Monetary Economic Thought," *Journal of Economic Literature* 28 (September 1990), pp. 1097–1114; Jeffrey M. Herbener, "Calculation and the Question of Mathematics," *Review of Austrian Economics* 9, no. 1 (1996), pp. 151–62; Trygve J.B. Hoff, *Economic Calculation in a Socialist Society* (Indianapolis, Ind.: Liberty Press, 1981); Hans-Hermann Hoppe, "Socialism: A Property or Knowledge Problem?" *Review of Austrian Economics* 9, no. 1 (1996), pp. 147–54; Steven Horwitz, "Money, Money Prices, and the Socialist Calculation Debates," *Advances in Austrian Economics* 3 (1996), pp. 59–77; Willem Keizer, "Schumpeter's Walrasian Stand in the Socialist Calculation Debate," in *Austrian Economics in Debate*, ed. Willem Keizer, Bert Riben, and Rudy Van Zijp (London: Routledge, 1997); and Israel M. Kirzner, "The Economic Calculation Debate: Lessons for Austrians," *Review of Austrian Economics* 2 (1988), pp. 1–18.

⁵⁴For more on the Austrian arguments related to this topic, see Peter G. Klein, "Economic Calculation and the Limits of Organization," *Review of Austrian Economics* 9, no. 2 (1996), pp. 3–28; Don Lavoie, "A Critique of the Standard Account of the Socialist Calculation Debate," *Journal of Libertarian Studies* 5, no. 1 (Winter 1981), pp. 7–22, 41–87, and 89–97; Peter Lewin, "The Firm, Money, and Economic Calculation," *American Journal of Economics and Sociology* 57, no. 4 (October 1998); Yuri N. Maltsev, *Requiem for Marx* (Auburn, Ala.: Ludwig von Mises Institute, 1993); Ludwig von Mises, *Socialism* (Indianapolis, Ind.: Liberty Press/Liberty Classics, 1981); Peter Murrell, "Did the Theory of Market Socialism Answer the Challenge of Ludwig von Mises? A Reinterpretation of the Socialist Controversy," *History of Political Economy* 15, no. 1 (Spring 1983), pp. 92–105; Gerald P. O'Driscoll, *Economics as a Coordination Problem* (Kansas City: Sheed Andrews and McMeel, 1977), pp. 1–15; John O'Neill, "Who Won the Socialist Calculation Debate?" *History of*

Lee delivers himself of this opinion: "Each [representative] would . . . know that his or her constituents could benefit from . . . national defense."⁵⁵ Yet, for all we know as disinterested scientists, the entire polity may be composed of pacifists who revile the idea of protecting themselves. People may *say* they wish to be defended, but they can be lying in a way they cannot be when they plunk down a dollar on the barrel-head and take away some apples. What would it *mean* for such a person to deny that he ranks the apples higher than the dollar he just voluntarily paid for them? People may *vote* for an army in a referendum, or in favor of politicians who promise to provide defense, but, as even Lee has conceded in his analysis of the weaknesses of the public sector, this does not definitively establish any such preference.

Lee continues with this problematic claim: "Residents of South Carolina receive as much protection from a submarine patrolling the

Political Thought 17, no. 3 (Autumn 1996), pp. 431–42; Joseph Persky, "Retrospectives: Lange and von Mises, Large-Scale Enterprises, and the Economic Case for Socialism," *Journal of Economic Perspectives* 5, no. 4 (Autumn 1991), pp. 229–36; George Reisman, *Capitalism: A Treatise on Economics* (Ottawa, Ill.: Jameson Books, 1996), pp. 135–39, 267–82; Morgan O. Reynolds, "The Impossibility of Socialist Economy," *Quarterly Journal of Austrian Economics* 1, no. 2 (Summer 1998), pp. 29–43; Murray N. Rothbard, "The End of Socialism and the Calculation Debate Revisited," *Review of Austrian Economics* 5, no. 2 (1991), pp. 51–70; Joseph T. Salerno, "Ludwig von Mises as a Social Rationalist," *Review of Austrian Economics* 4 (1990), pp. 26–54; Joseph T. Salerno, "Postscript: Why a Socialist Economy is 'Impossible'," in *Economic Calculation in the Socialist Commonwealth*, by Ludwig von Mises (Auburn, Ala.: Ludwig von Mises Institute, 1990), pp. 51–71; Helen E. Schultz, ed., *Economic Calculation Under Inflation* (Indianapolis, Ind.: LibertyPress, 1976); David Ramsey Steele, *From Marx to Mises: Post-Capitalist Society and the Challenge of Economic Calculation* (La Salle, Ill.: Open Court, 1992); David Ramsey Steele, "Posing the Problem: The Impossibility of Economic Calculation Under Socialism," *Journal of Libertarian Studies* 5, no. 1 (Winter 1981), pp. 99–111; Reinhard Stiebler, "A Pre-History of Misesian Calculation: The Contribution of Adolphe Thiers," *Quarterly Journal of Austrian Economics* 2, no. 4 (Winter 1999), pp. 41–47; Elizabeth Tamedly, *Socialism and the International Economic Order* (Caldwell, Idaho: Caxton Printers, 1969); Karen I. Vaughn, "Economic Calculation Under Socialism: the Austrian Contribution," *Economic Inquiry* 18, no. 20 (June 1980), pp. 535–54; Leland B. Yeager, "Mises and Hayek and Calculation and Knowledge," *Review of Austrian Economics* 7, no. 2 (1994), pp. 93–110.

⁵⁵Lee, "In Defense of Excessive Government," p. 680.

oceans as do residents of California no matter whose taxes pay for it.”⁵⁶ It is plausible that if the submarines were patrolling the eastern Pacific, the Californians would feel safer, and the South Carolinians neglected, and if the subs were in the western Atlantic, then the very opposite would be the case.⁵⁷ The point is that the country cannot necessarily be treated as one single unit. Even if it were not so vast, still, police or army manpower allocated to one area presumably has a higher marginal product there than somewhere else.

Consider Jude Wanniski’s argument concerning the military-industrial complex:

President Bush now is running around Europe trying to persuade our NATO allies and the Russians that the ABM Treaty is obsolete, because the Cold War is over. But why then abrogate that treaty and spend a trillion dollars on more exotic weapons? For the first time in the history of the world, we are at the tippy-top of the world political economy. There is not a single nation that shows the slightest interest in challenging that hegemony. Instead of debating new weapons systems, we should start from the other end of the spectrum and ask why we need a Defense Department at all. We should “sunset” the Pentagon. In other words, start with the assumption that we do not need ANY Pentagon, and ask that the Military-Industrial Complex tell us why they need to soak our taxpayers for astronomical sums of money when we have no visible adversaries.

Why do we need an Army and an Air Force and Marines and a Navy, for goodness sakes? If we dissolved the whole shootin’ match, the other nations of the world that now are forced to spend precious resources to protect themselves from threats from Uncle Sam would be able to follow our example and downsize from military empires to simple police forces. Doesn’t that make sense? When Defense Secretary Don Rumsfeld took office a few months back, he undertook a reappraisal of Pentagon needs in this new era, but he did it in such secrecy that Republicans in Congress complained and your predecessor as Majority Leader, Trent Lott, had to call him on the carpet to get him to open up. Rumsfeld’s approach was from the top down,

⁵⁶Lee, “In Defense of Excessive Government,” p. 680.

⁵⁷I assume away for the sake of argument the possibility that the citizens in either state might see the sub’s presence as a provocation, and thus a greater danger to themselves.

guaranteed to add to the Pentagon's demands for resources when we already outspend the rest of the world *combined* on "national defense."⁵⁸

The Case of the Environmental-Industrial Complex

Let us stipulate, if only for the sake of argument, and contrary to the criticisms mentioned above, that government is on net balance a force for environmental protection, not the very opposite. Even so, Lee's analysis is still marred by his inability to discern an "optimal" point for governmental interference with the economy. His only answer to the question of "How much role for the public sector" would appear to be "More."

Lee writes:

But, as with the MIC, we are dealing with a public good, and one can defend the waste in environmental policy as providing the rents necessary to mobilize interest groups to take *more* political action on behalf of environmental protection than would be taken otherwise.

And again: "the MIC and the EIC may serve a useful function by *exaggerating* the threats to be protected against."⁵⁹ If "more" is the only answer, and Lee is instigating the EIC to exaggerate dangers so as to call forth yet even "more" government intervention, there really is no stopping place short of "all." This is a strange way to defend markets, one of Lee's ostensible goals.

The Case of Crime Control

Lee dismisses the role of private security guards in quelling crime, even though he admits there are more of them than public police officers, on the ground that "the former create primarily private goods."⁶⁰ This is difficult to understand. One would have thought, instead, that "a cop is a cop" and "security is security." If it looks like a cop, dresses like a cop, and acts like a cop, well, then, maybe it *is* a cop.

But no. It would appear, at least for Lee, that the financing of a service determines whether or not it is a private or public good. However,

⁵⁸Jude Wanniski, "Sunset the Pentagon," *polyconomics.com*.

⁵⁹Lee, "In Defense of Excessive Government," p. 681, emphasis added.

⁶⁰Lee, "In Defense of Excessive Government," p. 682.

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this is erroneous. According to his own neoclassical theory, whether a good is private or public depends solely upon its excludability (whether one consumer can exclude another) and rivalrousness (whether one consumer should exclude another), not at all upon how it is financed.

Consider chart 1.

	Should Exclude	Should Not Exclude
Can Exclude	A (shoes)	B (television signal)
Can Not Exclude	C (street)	D (defense)

The columns (Should Exclude and Should Not Exclude) concern whether a good is rivalrous. The rows (Can Exclude and Can Not Exclude) consider whether a good is excludable. This two-by-two matrix gives rise to four possibilities, labeled as boxes A, B, C, and D. A is a pure private good, such as shoes or butter, since these goods are rivals in that if I use them, you are precluded from their utilization, unless you pay for them. Thus, there is reason to preclude you from their enjoyment, otherwise I cannot fully retain them, given that only one of us can do so. As well, excluding non-payers can easily be done, making this category the only one of the four not characterized as a “failure.”⁶¹

D is the pure public good, since, if I enjoy it, I am not able to exclude you from it, nor is it rivalrous, in that my use of it does not at all detract from yours. The usual examples given of this category are national defense and the lighthouse.⁶² According to proponents of this

⁶¹To be fair to mainstream economists, this category contains most goods and services in an economy. They advocate coercive socialism for the relatively few remaining members of the other three categories, at most.

⁶²The lighthouse has somewhat and very gradually fallen out of favor as an example of a pure public good since the publication of Coase, “The Lighthouse in Economics.” Note that Lee nowhere mentions this case, but he does prominently use crime, the environment, and national defense. Why is it that although the lighthouse can no longer be used for this purpose in polite economic circles, the same fate has not (yet) befallen these three cases? I speculate that this phenomenon is due solely to the fact that it was Coase, a widely respected mainstream economist, who obliterated the public goods aspect of the lighthouse. The other cases have been demolished by Rothbard and others, but to no avail so far.

Here is a contrary-to-fact conditional to consider: had it been Rothbard and other libertarians who had done for lighthouses what Coase is widely seen as having done, and had it been Coase who had shown that defense, crime

doctrine, you should not be excluded from this benefit even though you do not pay for it, nor can you be precluded from enjoying it without payment; thus, it cannot be provided by a private firm on a profit-making basis.

An example of B is a television broadcast: this service is not rivalrous, in that one person's enjoyment of a program does not reduce that of another, but non-payers can be excluded from viewing it, given the advent of jamming devices which render feasible pay for view. However, since the marginal cost of adding one more viewer is zero, it would be inefficient to charge anyone for this benefit. Hence, profit-earning businesses cannot come into being, and the government must somehow engage itself in provision.

An illustration of C is the crowded street. Here, it is difficult or impossible to exclude passersby, but each of them impedes the free flow of all the others, so the good is rivalrous. Government must provide sidewalks, in this view, since people will free ride (or, rather, free "walk.")

It is this concept that is at the core of Lee's analytic framework. Without it, his entire range of proposals falls to the ground. Yet, it can easily be shown that this staple of mainstream economics is a tissue of fallacies. Coase is reputed to have already eliminated the lighthouse as member of category D by supposedly showing that boat owners did have incentive to pay off those who marked off dangerous rocks. The risk was that they should ever be turned off in an hour of need; this made it well worth-while to pay for this valuable service. Similarly, defense and crime prevention are not rivalrous; if a police station or a submarine is in one place, it is not so easy for it to cover another. Nor are they non-excludable: people who pay might be given signs saying that they are under the protection of the security firm, while those who do not pay do not receive such signs. In such a state, the latter would be natural targets for criminals, whether foreign or domestic.

At the other end of the spectrum, it is by no means clear that A is not a null set. If you purchase shoes and butter, for example, it might well be claimed that I am a beneficiary. To the extent that you are now healthier and more able to work, you will be less of a financial drain on me, and more able to enter into a division of labor with me. So, you

stopping, and environmental protection were not public goods, Lee and others of his ilk would now be using the lighthouse to illustrate the idea of public goods, and would be eschewing these other examples for that purpose.

cannot exclude me from enjoying your use of your own purchases, even though I do not pay for them.⁶³

Some Criticisms

Lee takes time to consider three possible objections to or criticisms of his thesis: people voluntarily contribute to public goods production, people privately produce public goods, and the bad aspects of rent-seeking should be eliminated while the good aspects kept.

People voluntarily contribute

The first criticism against his thesis considered by Lee is that “people do contribute voluntarily to the provision of public goods.” And his refutation of this objection? “[M]ost economists would agree that such voluntary action alone would leave us with woefully inadequate quantities of public goods such as national defense, environmental quality and crime control.”⁶⁴

There are difficulties here. First, there is no such thing as a “public good”; this is mere statist apologetics. As we have seen above, not even category A can be precluded from such characterization, and the members of the other three categories can all be so considered. Rivalrousness has a strong subjective element, and just because the state cannot exclude non-payers from service does not mean that more efficient entrepreneurs cannot.

Second, on the assumption that this is a coherent concept, there will be an underallocation of resources to these goods under the pure market, but also an overallocation under government control, given bureaucratic “rent seeking,” and Lee gives no reason to suppose that the latter is preferable to the former.

Third, it is particularly unsatisfactory to “argue” in favor of a proposition that “most economists would agree” with it. This constitutes the informal fallacy of *argumentum ad populum*.⁶⁵

⁶³For a critique of the mainstream economic view on externalities and public goods see Jeffrey Rogers Hummel, “National Goods Versus Public Goods: Defense, Disarmament, and Free Riders,” *Review of Austrian Economics* 4 (1990), pp. 88–122; and Andrew P. Morriss, “Miners, Vigilantes, and Cattle-men: Overcoming Free Rider Problems in the Private Provision of Law,” *Land and Water Law Review* 33, no. 2 (1998), pp. 581–696.

⁶⁴Lee, “In Defense of Excessive Government,” p. 682.

⁶⁵For examples of the case against the Austrian school of economics based on the argument from authority, see David N. Laband and Robert D. Tollison,

Fourth, it is simply not true that public goods can only be provided by people “sacrificing private concerns”⁶⁶ in violation of Adam Smith’s notion of the invisible hand. This overlooks the institution of internalizing externalities for fun and profit.

Fifth, to show that there is a core element of subjectivism inherent in the concept, Lee maintains that “family farming, medical care . . . [and] education are not public goods.”⁶⁷ But “most economists,” to resort to his own style of arguing for the nonce, would certainly disagree with this assessment. Indeed, education is one of the most highly utilized examples of a public good in the literature.

Private individuals create private, not public, goods

Lee’s second criticism of the argument that private individuals can provide public goods is that to the extent they do, they are no longer private. He writes:

Any arrangement that succeeds in providing a public good to many people, where excludability is a concern, requires some means of making collective decisions and then enforcing those decisions on those who either disagree with them or attempt to free rider [sic]. In other words, such a “private” arrangement for providing public goods takes on characteristics of governments.⁶⁸

“On Secondhandism and Scientific Appraisal,” *Quarterly Journal of Austrian Economics* 3, no. 1 (Spring 2000), pp. 43–48; Sherwin Rosen, “Austrian and Neoclassical Economics: Any Gains from Trade?” *Journal of Economic Perspectives* 11, no. 4 (Fall 1997), pp. 139–52; and Richard Vedder and Lowell Gallaway, “The Austrian Market Share in the Marketplace for Ideas, 1871–2025,” *Quarterly Journal of Austrian Economics* 3, no. 1 (Spring 2000), pp. 33–42. For rejoinders, see William L. Anderson, “Austrian Economics and the ‘Market Test’: A Comment on Laband and Tollison,” *Quarterly Journal of Austrian Economics* 3, no. 3 (Fall 2000), pp. 63–73; Walter Block, “Austrian Journals: A Critique of Rosen, Yeager, Laband and Tollison, and Vedder and Gallaway,” *Quarterly Journal of Austrian Economics* 3, no. 2 (Summer 2000), pp. 45–61; Leland Yeager, “Austrian Economics, Neoclassicism, and the Market Test,” *Journal of Economic Perspectives* 11, no. 4 (Fall 1997), pp. 153–63; and Leland Yeager, “The Tactics of Secondhandism,” *Quarterly Journal of Austrian Economics* 3, no. 3 (Fall 2000), pp. 51–61.

⁶⁶Lee, “In Defense of Excessive Government,” p. 682.

⁶⁷Lee, “In Defense of Excessive Government,” p. 683.

⁶⁸Lee, “In Defense of Excessive Government,” p. 683. On this point, Lee cites Randall Holcombe, *The Economic Foundations of Government* (New York:

Here, Lee is laboring under the belief that “collective decisions” equal “coercive decisions.” Like virtually all other members of the Public Choice School, he fails to distinguish between acting collectively and acting coercively. But there is all the world of difference between a municipal pool and a private club which offers its members the use of the common swimming facilities. Both are “collective” activities, but the former is coercive, while the latter is voluntary. In the private club, if you don’t pay, you cannot enjoy the amenity, which is the private property of all of those who have paid. As for the town recreational center, you are *forced* to subsidize it, through taxes. You may move away, only to the next town, but still, you are doing so at the point of a gun.

Contrary to Lee, there is no “continuum between private organizations, from which exit is easy, and governments, from which exit is difficult.”⁶⁹ Either you are a victim of coercion, or you are not. If the former, it is necessarily a statist act.⁷⁰ To be sure, there is a continuum between coercion and non-coercion, between threats and non-threats. For example, just how far my fist must be from your nose before I am deemed to have committed an assault upon you is a matter of degree. But once that issue is settled, there is no further continuum of any relevance. Government financing of the swimming pool is coercive; the private counterpart is not.

There is an old joke that asks: “Do you know the difference between a bathroom and a living room?” If you reply in the negative, the punch line is, “Well, then, don’t come to my house.” In like manner we can say that if you don’t know the difference between voluntary and coercive acts, then you might want to reconsider whether you really want to do political economics, since this is the most basic distinction in that entire field of endeavor. Boudreaux, Holcombe, and now Lee indicate

New York University Press, 1994); and Donald J. Boudreaux and Randall G. Holcombe, “Government by Contract,” *Public Finance Quarterly* 17, no. 3 (June 1989), pp. 264–80. For a reply to this line of reasoning, see Walter Block, “National Defense and the Theory of Externalities, Public Goods, and Clubs” (Loyola University of New Orleans, photocopy).

⁶⁹Lee, “In Defense of Excessive Government,” p. 683.

⁷⁰This must be qualified somewhat. A government is correctly defined as an institution with a legal monopoly over initiatory coercion in a given geographical area. Strictly speaking, then, a “free enterprise” or private gunman is not a government, since he has no such legal monopoly. Nonetheless, he is engaged in a statist type of act, given that the quintessential element of the government is the initiation of force or the threat thereof, and he resembles them in that.

that they are either unable or unwilling to make this most fundamental distinction.

This reply of Lee's sets up a catch-22 situation for his opponent. Either no individual person can (fully) supply a "public good," or, if he can, then he is really acting governmentally. Heads Lee wins, tails his opponent loses. But this cannot be allowed to stand. Lee cannot be allowed to win the debate with this trick of linguistic legerdemain. Very much to the contrary, there is no reason why a firm cannot supply a "public good." And if it does, there is no valid argument that automatically converts this into a governmental act. Methodologically, neo-classical economists live or die based on falsifiability. One must be able to mention a state of the world in which one's thesis can be untrue, at least in principle. In this case, Lee cannot do so. Hence, his thesis contradicts his own methodological principles.⁷¹

Keeping the good while eliminating the bad

The third objection that Lee considers is that in carrying out so-called invisible hand "rent-seeking,"⁷² his argument "applauds the productive consequences of special-interest rent seeking while minimizing the counterproductive consequences." Here is his very charming response:

But this criticism assumes we can get rid of the harmful rent seeking and keep that which is beneficial. That sounds good to me. I want to go on record right now as being in favor of getting rid of the bad and keeping the good. But there is a small problem with this noble sentiment. How do we carry it out?⁷³

The answer seems perfectly clear: privatize, and allow the invisible hand of the market to provide all goods and services that people can

⁷¹On this, see Hans-Hermann Hoppe, *Praxeology and Economic Science* (Auburn, Ala.: Ludwig von Mises Institute, 1988); Murray N. Rothbard, "Praxeology, Value Judgments, and Public Policy," in *The Foundations of Modern Austrian Economics*, ed. Edwin G. Nolan (Kansas City: Sheed and Ward, 1976); and George A. Selgin, "Praxeology and Understanding: An Analysis of the Controversy in Austrian Economics," *Review of Austrian Economics* 2 (1988), pp. 19–58.

⁷²Lee, "In Defense of Excessive Government," p. 684. This phrase is a strong candidate for internal contradiction of the year honors.

⁷³Lee, "In Defense of Excessive Government," p. 683.

demonstrate they prefer, when compared to the costs necessary to produce them.

Lee goes on to deny he is “suggesting here that we can never get rid of bad government programs” and mentions the Civil Aeronautics Board, the Interstate Commerce Commission, and the Selective Service System as cases where we have done so successfully.⁷⁴ However, in welcoming airline, the draft, and other such deregulations, Lee is undermining his very own position. Had he remained true to it, he would have objected to these occurrences on the ground that these accretions to economic freedom would have put at undue risk all the wonderful things that government does for us, public-goods wise. What benefit to us is it to have slightly more economic freedom in the airline industry, etc., he would have said, if this reduces the “rent-seeking” that bureaucrats can garner; for if it does, then these people will employ the “Washington Monument” tactic and refuse to provide us with national defense, crime fighting, light houses, etc. It is surely penny wise and pound foolish to advocate *any* deregulation, based on this perspective.

But perhaps I speak too quickly. Perhaps there is *some* level of economic freedom, short of that which prevails in such capitalist bastions as Cuba and North Korea, which is both optimal and sustainable. The only problem with this surmise is that our guide in these matters, Prof. Lee, vouchsafes us no criterion on the basis of which we can make any such judgment. All he says on the matter, in effect, is that we must appreciate government excess, because it is only in this way that we can attain those elements of the state without which we as a society could not survive. But we are left hanging in the air, so to speak, as far as a roadmap that indicates just *how much* excessive government we must endure to retain for ourselves the “good bits.” All we are told is that more government is better. It would appear that his motto would be “that government which governs most governs best,” or “that government is best which governs most.”

THE MARGINAL VERSUS THE TOTAL

Lee starts off this section reiterating his argument from authority:

I believe *most people*, public choice economists included, will accept that governments, at least those constrained by constitutional democracy, as imperfect as those constraints

⁷⁴Lee, “In Defense of Excessive Government,” p. 684.

are, create positive net value in total. The citizens in the industrial democracies are better off with their existing levels of government than they would be without government.⁷⁵

For all I know, this might even be true. But this is not a bar room brawl; rather, it is supposed to be an exercise in scholarship. In such contexts, mere assertions, even backed up by majority opinion amongst economists, will not suffice. It would be nice to know the *evidence* upon which Lee bases his claim, but such evidence is not forthcoming. It would be nice to know, at least in principle, how he recommends that we empirically or otherwise *test* this declaration, but that, too, is not provided. So much for the self-styled reliance upon data on the part of mainstream economists.

However, basing his argument on marginal, not total considerations, Lee now reverses field. Instead of calling for an ever-increasing bureaucracy and “more” government expenditure due to the invisible hand of politics, Lee now writes:

the political process . . . results in government’s expanding beyond the point where its marginal value equals its marginal cost. The recommendation is not for the elimination of government, but for the downsizing of government.⁷⁶

I confess that I am confused. Now, and in the case of the “Civil Aeronautics Board, the Interstate Commerce Commission, and the Selective Service System” and, I presume, although he doesn’t discuss them in this article, rent control, minimum wages, and tariffs, there is too much government and we must cut back. But all throughout the article we are told, again and again, that excessive government is justified in that if we don’t have it, or if we try to quell it, we do so at the expense of forcing ourselves to do without (or with vast under-allocations of resources to) defense, crime fighting, environmental protection and other goods and services it is imperative that we avail ourselves of.

In this very section Lee illustrates this point with a diagram showing the necessity of putting up with “police brutality . . . a particularly offensive example of excessive government.”⁷⁷ If there were any question about the desirability of tolerating excessive government for Lee, he continues:

⁷⁵Lee, “In Defense of Excessive Government,” pp. 684–85, emphasis added.

⁷⁶Lee, “In Defense of Excessive Government,” p. 685.

⁷⁷Lee, “In Defense of Excessive Government,” p. 685.

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Give any agency of the government the power required to provide the maximum value over its ideal range of activity, and you have almost surely given it, and its special-interest clients, the power to expand its activity beyond that desirable range. . . . To obtain a reasonable level of inframarginal benefits from government activity, government has to have enough power to expand its activity beyond the point where, at the margin, that activity is destructive.⁷⁸

But why are matters any different with regard to those aspects of government Lee recommends trimming?

The essence of this article is its advocacy of increased government, seemingly without end. Interspersed within it are a few adventitious claims for reducing the power of the state, but in the context of this essay, they are merely the emanations of lip service to a world-view with which Lee has long been associated.

IS A DESIRABLE MINIMAL STATE POSSIBLE?

Lee maintains that if a minimal state were possible, it would not be desirable, and if it were desirable, it would not be possible. Let us consider these claims in reverse order. Why, first, given that a minimal government were desirable, would it be impossible to attain?

The minimal state is considered desirable because the public cannot control political decisions to prevent government from being used by special interests to trump the public interest when it expands beyond minimal state limits. But the special-interest influence that makes a large government such a threat to the general public is also the dominant force behind the growth in government.⁷⁹

But the latter statement is not true. Just as a matter of positive economics, if Lee's public-choice-based theory were a correct explanation of increasing government encroachment, there would be no possibility of the existence of the economies of Hong Kong or Singapore, which are not earmarked by excessive government, at least relative to most other countries in the world.⁸⁰

⁷⁸Lee, "In Defense of Excessive Government," p. 686.

⁷⁹Lee, "In Defense of Excessive Government," p. 686.

⁸⁰See James Gwartney, Robert Lawson, and Walter Block, *Economic Freedom of the World, 1975–1995* (Vancouver, B.C.: Fraser Institute, 1996).

Nor would this apply to the U.S. in its early days, where rarely was there to be found a government program that would be considered excessive, at least by today's standards. Some historians date the fall of the U.S. from Lyndon Johnson's "Great Society" welfare state.⁸¹ Others go back to FDR's "New Deal." A better starting point would be the progressive period in the late nineteenth century.⁸² An even better one would be Lincoln's War of Northern Aggression.⁸³

In any event, if public choice considerations were definitive, these nations, areas and epochs of relative economic freedom could not have occurred, for we would have had to, in effect, bribe bureaucrats with the proceeds of excessive governmental "rent seeking" to induce them to produce needed statist programs.

A far better explanation of why we have sunk so low, economic freedom-wise, can be found in the role of the intellectuals. Their independence has been purchased by the forces of dirigisme, and their function is to weave apologetics for an ever-increasing role for the state.⁸⁴ The pen is indeed mightier than the sword, if only because, ultimately, it determines the direction in which the latter is pointed. As Rothbard notes:

since the early origins of the State, its rulers have always turned, as a necessary bolster to their rule, to an alliance with society's class of intellectuals. The masses do not create their own abstract ideas, or indeed think through these ideas independently; they follow passively the ideas adopted and

⁸¹See Charles Murray, *Losing Ground: American Social Policy from 1950 to 1980* (New York: Basic Books, 1984); Allan C. Carlson, *Family Questions* (New Brunswick, N.J.: Transaction Publishers, 1988); and William Tucker, "Black Family Agonistes," *American Spectator* (July 1985), pp. 14–17.

⁸²See Gabriel Kolko, *Triumph of Conservatism* (Chicago: Quadrangle Books, 1963).

⁸³See, e.g., Jeffrey Rogers Hummel, *Emancipating Slaves, Enslaving Free Men: A History of the American Civil War* (Chicago: Open Court, 1996); and Thomas J. DiLorenzo, *The Real Lincoln: A New Look at Abraham Lincoln, His Agenda, and an Unnecessary War* (Roseville, Calif.: Prima Publishing, 2002).

⁸⁴Sadly, the present piece under consideration, Lee, "In Defense of Excessive Government," can be considered a paradigm case in this regard. It is obvious that in weaving new and clever apologetics for the growth of the state, Lee worsens the status of economic freedom, a goal that he purports to favor, at least in some points in his missive, e.g., regarding the Civil Aeronautics Board, the Interstate Commerce Commission, the Selective Service System, etc.

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promulgated by the body of intellectuals, who become the effective “opinion molders” in society. And since it is precisely a molding of opinion on behalf of the rulers that the State most desperately needs, this forms a firm basis for the age-old alliance of the intellectuals and the ruling classes of the State. The alliance is based on a *quid pro quo*: on the one hand, the intellectuals spread among the masses the idea that the State and its rulers are wise, good, sometimes divine, *and at the very least inevitable and better than any conceivable alternative*. In return for this panoply of ideology, the State incorporates the intellectuals as part of the ruling elite, granting them power, status, prestige, and material security. Furthermore, intellectuals are needed to staff the bureaucracy and to “plan” the economy and society.⁸⁵

Later, in a passage seemingly addressed to Lee, although it was penned long before, Rothbard declares:

The rule of the State is . . . made to seem inevitable. Furthermore, any alternative to the existing State is encased in an aura of fear. Neglecting its own monopoly of theft and predation, the State raises the spectre among its subjects of the chaos that would supposedly ensue if the State should disappear. The people on their own, it is maintained, could not possibly supply their own protection against sporadic criminals and marauders.⁸⁶

Second, let us consider why if a minimal state were possible, it would not be desirable. In Lee’s view, this is because:

if somehow the public acquired sufficient control over government to achieve a minimal state, the government would be subject to sufficient control to usefully address problems not within the purview of a minimal state. A government that is a good agent can obviously expand its reach farther with socially beneficial results than a government that is a poor agent. So the public control over government necessary to make a minimal state possible would render such a state no longer desirable.⁸⁷

Let us suppose that libertarian ideology swept the country to a degree sufficient to achieve the minimal state,⁸⁸ although there was still

⁸⁵Rothbard, *For a New Liberty*, p. 59, emphasis added.

⁸⁶Rothbard, *For a New Liberty*, p. 61.

⁸⁷Lee, “In Defense of Excessive Government,” p. 687.

⁸⁸Oh happy day!

not enough support to entrench laissez faire capitalism or free market anarchism.⁸⁹ This would satisfy the first of Lee's conditions: there would now be sufficient control over the "rent seeking" bureaucrats to forestall them in their aggrandizing efforts. But does this mean that this minimal government could "usefully address problems not within the purview of a minimal state"? It is difficult to see why this should be so, unless one adopts the (coercive) socialistic philosophy according to which the *only* thing holding government back from playing a positive role in the economy is "rent seeking." But surely the Austrian critic of centrally planned socialism encompasses far more than this.⁹⁰

Further, "a government that is a good agent" is a veritable contradiction in terms, even if, *mirabile dictu*, we somehow attain the power to achieve a limited version of it. Lee reckons without the insight that a limited evil is still an evil.⁹¹

When dealing with a fundamentalist archist⁹² such as Lee, one must be careful to discern a belief system that is not at all open to the possibility that markets can function in areas traditionally reserved for the government. For him, the idea of a well-functioning society in the absence of the state is not merely impossible, it appears actually meaningless, so little credence does he give to this vision as a practical application of political philosophy. And yet, if the government of the U.S. is necessary since without it people would be in a relationship of anarchy with one another (there is no over-arching legal authority ruling them

⁸⁹Doh!

⁹⁰In particular, the Austrian position stresses lack of information and deficiency in prices and appraisalment, due to a lack of private property rights.

⁹¹Nozick, *Anarchy, State, and Utopia*, suffered from a similar problem. For an anarcho-capitalist critique of Nozick's position, see Randy Barnett, "Whither Anarchy? Has Robert Nozick Justified the State?" *Journal of Libertarian Studies* 1, no. 1 (Winter 1977), pp. 15–22; Roy A. Childs Jr., "The Invisible Hand Strikes Back," *Journal of Libertarian Studies* 1, no. 1 (Winter 1977), pp. 23–34; Williamson M. Evers, "Toward a Reformulation of the Law of Contracts," *Journal of Libertarian Studies* 1, no. 1 (Winter 1977), pp. 3–14; Murray N. Rothbard, "Robert Nozick and the Immaculate Conception of the State," *Journal of Libertarian Studies* 1, no. 1 (Winter 1977), pp. 45–58; and John T. Sanders, "The Free Market Model versus Government: A Reply to Nozick," *Journal of Libertarian Studies* 1, no. 1 (Winter 1977), pp. 35–44.

⁹²The archist is the opposite of the anarchist. The anarchist maintains that the absence of government is ideal; the archist that its presence is ideal.

all), then it also follows that since the countries of the world are now in precisely the same state of anarchy with one another as would be citizens of the U.S. without this particular government (there is no overarching legal authority ruling them all), then a world government (e.g., the U.N. with real power) would be justified on these grounds. Yet, few are the archists willing to derive this non-deniable conclusion from their own (implicit) premises.

Lee considers two objections to his argument. First:

It might be argued that it is possible to exert the type of broad control over government necessary to achieve a minimal state, but not exert the detailed control required to make government a better agent at solving particular problems.

He follows with his response:

The trouble that I see with this objection is that it presumes that government solutions require detailed involvement, or micromanaging. But this is not the case. Indeed, government can typically accomplish more by establishing a frame of incentives that motivates private action than by attempts to solve problems and provide services directly. For example, given the inefficiency associated with the command-and-control approach to pollution control, there are certainly pollution problems that it makes no economic sense for government to address but which could be beneficially addressed by market-incentive approaches.⁹³

The difficulty with this reaction is that government is inefficient in *both* broad and narrow regulations, and this specifically includes “establishing a frame of incentives.” The state has established “incentives” with 90% marginal tax rates and above, welfare programs which reward sloth, idleness, promiscuity, and child illegitimacy,⁹⁴ rent controls, minimum wages, and trade restrictions. This is supposed to be productive, just because it is not micromanaging. As for his example of tradable emissions rights as a solution to pollution control, this, too, has come under withering attack from free enterprise, private property quarters.⁹⁵

⁹³ Lee, “In Defense of Excessive Government,” pp. 687, 688.

⁹⁴ See Gwartney, Lawson, and Block, *Economic Freedom of the World, 1975–1995*.

⁹⁵ See, e.g., Rothbard, “Law, Property Rights, and Air Pollution”; also McGee and Block, “Pollution Tradings Permits as a Form of Market Socialism.”

The second objection considered by Lee emanates from adherents of natural rights. These people, benighted souls that they are:

reject such efficiency-based arguments when it comes to determining the acceptable role of government. From this perspective, the only justification for government is as a means of protecting the natural rights of individuals, and the only acceptable way of providing this protection is in ways that do not violate anyone's natural rights.

Lee's response to these critics is mere dogmatism:

To those who refuse to accept a positive connection between public control over government and the amount it is desirable for government to do, I have no response except to say I think they are wrong.⁹⁶

CONCLUSION

After the serious mauling he has given them all throughout his article, Lee attempts to win back his free enterprise credentials in his concluding remarks by writing that "I hope no one takes my remarks as a defense of the status quo or as an argument against trying to rein in the size and scope of government activities."⁹⁷ Yet, that is exactly the implication to be drawn from Lee's article. Are we completely to ignore the very title of his article?

Further, Lee must have had some misgivings himself about his essay, compelling him to declare:

At this point some of you may be wondering what happened to the Dwight Lee whose work has been largely devoted to pointing out and critiquing the excesses of government, not defending them. Let me make clear, the old Dwight Lee is still here.⁹⁸

Nor will it help his resuscitation as a free enterpriser to declare at this late point that "I believe that government is larger than is warranted by

⁹⁶Lee, "In Defense of Excessive Government," p. 688. One may be excused for wondering if such fulminations belong in a supposedly prestigious scholarly journal.

⁹⁷Lee, "In Defense of Excessive Government," p. 688.

⁹⁸Lee, "In Defense of Excessive Government," p. 688.

my defense of excessive government.”⁹⁹ After all, he fails to give even a scintilla of a *reason* for this claim.

Lee believes, also, that “public choice arguments can help restrain, and possibly reverse, government growth, at least marginally,” by “reduc(ing) the influence of politically organized interest groups.”¹⁰⁰ If so, then based on the gist of the entire corpus of his article, this school of thought is a very dangerous one. Remember, according to this article, government is good, and more government is even better, even “excessive” government, because without the excesses and inefficiencies, we cannot have the crucially important “public goods” programs that government and only government can provide. So if the Public Choice School succeeds at restraining, and possibly reversing, government growth, then it will put at risk the entire apparatus of the state.

Lee ends on the following note: “But with luck and public choice scholars attacking government excess rather than defending it, there will soon be less excess to defend.” How this is possible to reconcile with an essay the burden of which is to extol excessive government, is beyond my ability to discern.

Lee’s is a brilliant and courageous essay in which he takes the insights of the Public Choice School rigorously to their logical conclusion. Nor does he shrink from embracing the implications of his own theory.¹⁰¹ This is admirable, in a scholarly sense. But although economics boasts the beauty of mathematics or geometry, it is also a humane science with immediate political implications for our lives.

Lee’s conclusions, in my view, are indistinguishable from those favored by advocates of totalitarian communism or nazism. His is a recipe for no less than the destruction of economic freedom. There is no logical stopping point for government intervention once we grant the existence of the invisible hand of the political system. The fact that Lee ended up in a place so inhospitable to the political economic philosophy he has been associated with all his career should have given him pause for thought. It did not. Hopefully, the present article will make a contribution in that direction.

⁹⁹Lee, “In Defense of Excessive Government,” p. 688.

¹⁰⁰Lee, “In Defense of Excessive Government,” pp 688, 689.

¹⁰¹Apart, of course, from his conclusion, and from a few inconsistent gestures in the direction of free enterprise sprinkled throughout his paper, where he attempts to deny his thesis.

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LOCKE, HOBBS, AND THE UD: COMMENT ON VAN DUN

Paul Gottfried*

Frank van Dun, in his learned essay on the Hobbesian roots of the Universal Declaration of Human Rights (UD), passed by the UN General Assembly in December 1948, presents arguments that need to be assessed.¹ By his account, there are two types of rights guaranteed by the UD: one bearing a resemblance to the natural rights–natural law tradition that Van Dun finds exemplified by Locke and the French Revolution’s Declaration of the Rights of Man and of Citizens, and the other the “economic, social, and cultural rights” that the UD, particularly in Articles 22 through 28, declares as no less “universal.”

According to Van Dun, the second part of the UD overshadows the first, since all rights and their bearers will have to depend on what the state deems worthy of enforcement. This situation supposedly points back to the Hobbesian as opposed to Lockean framework of those who formulated the document. Unlike the wise John Locke, Thomas Hobbes, we are reminded, thought that men were controlled by appetite and will.² They had no strong counterweight to their desires except for the one provided by the sovereign state. Like Hobbes, the UD assumes that the reckless will and the passion for acquisition

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¹Frank van Dun, “Human Dignity: Reason or Desire?” *Journal of Libertarian Studies* 15, no. 4 (Fall 2001), pp. 1–28.

²See John Locke, *The Second Treatise of Civil Government*, ed. Thomas P. Peardon (Indianapolis, Ind.: Bobbs-Merrill, 1952); cf. Thomas Hobbes, *Leviathan: or, the matter, forme & power of a commonwealth, ecclesiastical and civil*, ed. A.R. Waller (Cambridge: Cambridge University Press, 1935).

are “ultimately incompatible” with social order. The document therefore empowers the state to decide which “human satisfactions” are to be granted and which are to be denied.

Van Dun offers a thoughtful study of the conceptual origins of a text that allegedly betokens the progressive thought of the post-War period. He is correct to note the socialist tones of the later Articles, which clash with the explicit affirmation of property rights in Article 17. Nonetheless, Van Dun is open to criticism on significant details. As Allan Carlson demonstrates exhaustively,³ the UD is full of neo-Thomist ideas that can be traced to the Maronite and other Catholic authors of the document. It reveals a corporatist character when it talks about “the family as the natural and fundamental group unit of society” (Article 17) and when it calls for “the protection of motherhood” and the nurturing role of women (Article 25).

If the UD points in any direction, it is away from the atomistic anthropology represented by Hobbes and Locke, toward a neomedieval view of society, based on the individual’s integration into both a family and a nation. Carlson observes that recent changes in the Declaration indicate how much more radicalized Western societies have become, as a result, we are told, of the feminist movement. It is also possible to see feminism as a movement pointing toward a greater individual self-consciousness, albeit without the right to property that Van Dun considers as enshrined by Locke and the early phase of the French Revolution.

Allow me to note some conceptual problems in Van Dun’s presentation. I know of no adequate reason to presuppose a critical continuity between Aristotelian natural law and Lockean natural right—or between Aristotelian ethics and Locke’s allusions to natural law. The meager references made by Aristotle in the *Nicomachean Ethics*⁴ to phenomena that “like the wind” prevail in Persia as well as in Greece provide only the rudiments of the concept of normative morality to which Van Dun alludes. This concept would have to be developed more fully by Cicero and, later, by Aquinas and Hooker.⁵

³Allan Carlson, “U.N. Declaration on Human Rights,” *Family in America* 14, no. 8 (August 2000), pp. 1–4.

⁴Aristotle, *Nicomachean Ethics*, trans. Martin Ostwald (New York: Macmillan, 1962).

⁵Marcus Tullius Cicero, *De Officiis*, trans. Walter Miller (New York: Macmillan, 1913); Thomas Aquinas, *Summa Theologiae* (New York: McGraw-Hill,

Although Locke, following the medieval schoolmen and Hobbes, speaks of natural reason and natural law, it is not clear that “the preservation of self” and “a right to what nature affords,” which is what Locke understands as the teachings of natural reason, is what the scholastics had in mind. To illustrate the difference, the belief in a prohibition against adultery, presumably known in Christian theology through common grace, is not the same as a right to cultivate and market cannabis without state interference. There is certainly merit in the arguments for a cross-cultural morality that shared human intelligence can grasp and formulate. Moreover, I see at the same time prudential value in curbing the overreach of the modern managerial state. But while the first is about ethical prescriptions and moral imperatives, the second, the right to be left alone, is about something else, namely, placing limits on the state’s authority for the sake of individual satisfaction.

Van Dun makes too much of the fact that Hobbes explicitly attacks Aristotle in *Leviathan* (falsely misrepresenting him as the philosophical source for Catholic subversion of the English sovereign state). At the same time, Locke is made to appear as a traditional political theorist who quotes Aristotelians to undergird his natural rights arguments. But note that Hobbes, who came first, was asserting the claims of a “science of politics” against the scholastic arguments that had been used to defend medieval webs of association. It was Hobbes who broke the conceptual ground that Locke inherited. Locke could, therefore, present a deeply atomistic view of civil society, throw away the notion of innate ideas, and even suggest a material conception of God without having to worry about the shadow cast by medieval thought.

Locke can be generous to Aristotle precisely because he had become irrelevant, except for some defenders of unfettered monarchy who quoted from Aristotle’s *The Politics* quite selectively. Locke was nice to Aristotle the way American liberals were kind to Robert Taft, when they cited this stalwart defender of limited government as a critic of anti-Communist foreign intervention. This is the gesture of generosity that a triumphant present can afford to pay the defeated past. But it does not prove that the past has prevailed in the present, save as a source of usable citations for a contemporary project.

I might also note parenthetically that Locke’s quotations from Richard Hooker are typically brought up to show what Locke could

1964–76), Part Two, particularly Questions 90 and 91; and Richard Hooker, *Of the Laws of Ecclesiastical Polity* (London: J.M. Dent, 1965).

have learned from Hobbes, e.g., that men are as in a state of nature when “mutual grievances, injuries, and wrongs” attend their dealings, or else to underscore the empirically self-evident, e.g., that “regiments” in the past were sometimes despotic and had to be made subject to legal limits. Such mostly decorative appeals by Locke to an Anglican Aristotelian theologian do not really show his indebtedness to Aristotle.

Those looking for a plausible pedigree for Locke’s political thinking are advised to study George Buchanan. A sixteenth-century Calvinist theologian, Buchanan, in his 1579 work *De Iure Regni apud Scotos; Dialogus*,⁶ presents an early version of the Lockean social contract dressed up with biblical verses. Scottish Presbyterians in the sixteenth and early seventeenth centuries, who surely could not be described as Aristotelians, expounded political concepts foreshadowing Lockean contractualism.

This was not surprising: the author of the two *Treatises* had grown up a low-church Anglican, receiving an essentially Calvinist religious education. The first *Treatise* takes on Filmer’s *Patriarcha*,⁷ which was composed as a refutation of the political writings of Buchanan. Given these widely known facts, there is no good reason for scholars to scurry around for evidence that Locke, the political theorist, was a latter-day Aristotle or Aquinas. Although Howard Warrender has made similar arguments about the scholastic origins of Hobbes,⁸ I find this attempt to archaize early modern political thinkers to be less than convincing.

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⁷Sir Robert Filmer, *Patriarcha, or, The Natural Power of Kings* (London: Walter Davis, 1680).

⁸Howard Warrender, introductory essay to *De Cive*, by Thomas Hobbes (London: Oxford University Press, 1982).

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REPLY TO GOTTFRIED

Frank van Dun*

I have few and then only minor quarrels with Prof. Gottfried's remarks.¹ Indeed, they would be pertinent criticisms *if* they were directed at positions that I had stated explicitly or implied unambiguously in my paper on human rights. However, I certainly did not intend to defend the positions Gottfried ascribes to me, and I find no evidence that I inadvertently did so. His comments are, therefore, a criticism of a paper I have not, and do not wish I had, written.

The reader is reminded that the argumentative framework of my paper was set by Hans Crombag's interpretation of the present doctrine of human rights as a sympathetic but naïve legacy of the classical theory of natural law. It is Crombag's view—one that is shared by many positivists like him—that that theory is basically the same whether it is presented by an Aristotle, a Thomas Aquinas, or a John Locke. It is not my view.

Indeed, as I wrote in the paper, I did “not intend to add to or comment on the long debate . . . on the relationship between the classical theories of natural law (in the tradition of Saint Thomas) and natural rights (the Lockean tradition).” For my purpose, it was enough to argue that the present doctrine of human rights fits a Hobbesian view of human beings and their relationships, but does not fit either a Lockean or a Thomistic or an Aristotelian view of those things. It was not necessary—indeed it would have been false—to argue that the latter authors share the same view. Moreover, the crux of my argument was to note the conceptual and logical differences between “natural rights” and “rights to.” It does not depend on any claim concerning who influenced whom.

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¹Paul Gottfried, “Locke, Hobbes, and the UD: Comment on Van Dun,” *Journal of Libertarian Studies* 16, no. 3 (Summer 2002), pp. 83–87.

That being said, let me reply briefly to Prof. Gottfried's remarks and criticisms in the order that he makes them. He writes that Allan Carlson has "demonstrated exhaustively" that the Universal Declaration is full of neo-Thomist ideas. However, it has been demonstrated that it is also full of other ideas, e.g., socialist, syndicalist, and democratic.² As I wrote in the paper, without elaborating the point, "[i]n truth, the UD was a political compromise." I added that "[w]hatever the actual history of its drafting, . . . the whole document has come to be seen as a statement of a coherent doctrine of human rights." *Pace* Carlson perhaps, it is beyond dispute that the cohesion of that doctrine is *not* provided by a Maronite or Catholic neo-Thomist framework. Gottfried's statement that "[i]f the UD points in any direction, it is . . . toward a neo-medieval view of society," I can only regard as fanciful.

As for the "corporatist" character of the UD, it is necessary to distinguish between the nineteenth century neo-Thomist corporatism, which was neo-medieval and in fact directed against the notion of the absolute sovereignty of the legislative power of the liberal bourgeois state in the French style, and the corporatism of the Interbellum. The latter type of corporatism was not neo-medieval. On the one hand, it was an attempt to free government (the executive power) from parliamentary control and the vicissitudes of party politics (in its dominant manifestations in Southern Europe, e.g., in Portugal and Italy). On the other hand, it was an attempt to overcome the crisis of legitimacy of the democratic state without giving up its framework of formal democracy. This was achieved by accommodating powerful organised pressure groups into the processes of making, implementing, and revising policies (in its dominant manifestations in Western and Northern Europe, e.g., in the Netherlands, Belgium, France and Sweden). It was the latter Interbellum-variant (which, after the war, developed into variants of the welfare state) that entered into the modern human rights doctrine, not the nineteenth century neo-medieval variant.

Prof. Gottfried writes that there is no reason to presuppose a critical continuity between Aristotelian natural law and Lockean natural right. I agree. As I stated above, my argument was that there is no continuity between the present doctrine of human rights and either Locke or Aquinas. Surely, that argument does not commit me to the position Gottfried ascribes to me, that there is continuity between Saint Thomas (let alone Aristotle) and Locke.

²See, e.g., Johannes Morsink, *The Universal Declaration of Human Rights: Origins, Drafting, and Intent* (Philadelphia: University of Pennsylvania Press, 1999).

Gottfried finds it necessary to remind us that “ethical prescriptions and moral imperatives” are about different things than “the right to be left alone.” Again, I agree, but apparently Gottfried did not pick up the point I made when I said that “[n]o doubt, the Aristotelian–Thomistic ‘natural law theory’ belongs rather to moral philosophy (‘ethics’) than to the philosophy of law.” At any rate, he did not connect that remark to my clarification about the concept of law in footnote 15.

According to Gottfried, I make “too much of the fact that Hobbes explicitly attacks Aristotle in *Leviathan*.” He also writes that I make Locke “appear as a traditional political theorist who quotes Aristotelians to undergird his natural rights arguments.” I cannot find any targets for these remarks in my text, and Gottfried does not identify them. I do not doubt that both Hobbes and Locke can be described as theorists of individualism. In such a classification, they are both in opposition to Aristotelian and Thomist views on society. However, it does not follow that Hobbes’s individualism is of the same kind as Locke’s, nor does it follow that Hobbes’s natural right is of the same kind as Locke’s.

Gottfried suggests that I “scurry around for evidence that Locke, the political theorist, was a latter-day Aristotle or Aquinas.” That was not my intention, and, to be honest, I cannot find any basis for that charge in my text. To repeat, I did criticise Crombag for maintaining that modern human rights are a legacy of the tradition of natural law and natural rights (which for him does encompass Aristotle, Aquinas, Locke, and many others, but not Hobbes). It is, however, a mistake to read my criticism of that claim as an endorsement of Crombag’s (and most legal positivists’) assumption that everything that goes under the name of natural law or natural rights is basically the same thing.

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BOOK REVIEWS

Edited by N. Stephan Kinsella*

CHRIS SCIABARRA. *TOTAL FREEDOM: TOWARD A DIALECTICAL LIBERTARIANISM*. UNIVERSITY PARK: UNIVERSITY OF PENNSYLVANIA PRESS, 2000. Pp. 496.

Sciabarra's book is both stimulating and frustrating. On the one hand, it seems to be about method; on the other, it seems to wish to apply the method Sciabarra recommends—dialectics—to assess the work of such libertarian thinkers as F.A. Hayek, Ayn Rand, and Murray Rothbard. There is much to learn here, and also much about which to be skeptical.

Sciabarra's project is certainly ambitious. He allows himself 187 pages in which to develop the idea of dialectics, which he provisionally defines as “the art of context-keeping” (p. 2). Chapters one and two, respectively centered on Aristotle and Hegel, treat the dialectical attempt to see the “whole as an organic unity, not a collection of disconnected constituent elements” (p. 38). Chapter three discusses Marx, Menger, Hayek, and Mises, all of whom get points for dialectical thought, even if Mises's “rationalism” comes in for some criticism. Rand's analysis of man and society on three levels comes in for discussion as well. Here the reader would do well to consult Sciabarra's earlier book, *Ayn Rand: The Russian Radical*,¹ in which he developed a dialectical reading of Rand.

By chapter four, Sciabarra is ready to close in on a definition of dialectics. He does this by setting up contrasting approaches—strict

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¹Chris Sciabarra, *Ayn Rand: The Russian Radical* (University Park: University of Pennsylvania Press, 1995).

atomism, strict organicism, dualism (the author's least favorite), and monism—and dealing with their errors. Dialectics, properly understood, is said to avoid the perils of each.

Chapters five through eight, making up just over half of the book, apply Sciabarra's notions to a critique of libertarianism and, most importantly from our perspective, to a detailed exposition and critique of the systematic defense of liberty undertaken by Murray Rothbard. I have to say that the exposition of Rothbard's work is quite good, but the critique seems flawed.

Sciabarra's account reflects a thorough reading of Rothbard's work and shows a good grasp of Rothbard's ideas. As so often happens in this book, copious quotations are mustered around the topic, while the authorial voice slips into the background. Every serious criticism of Rothbard ever uttered is here, along with all the silly and tendentious ones.

Sciabarra's own view is that Rothbard's thought shows important dialectical elements, but that, in the end, Rothbard remained caught in a terrible "dualism"—separating out in analysis what cannot be sundered in reality—which led him to propose a "monistic" and "utopian" abolition of the state in favor of a purely market-based society.

Since this seems to be the most important conclusion to which dialectical reasoning has steered Sciabarra, it bears further discussion. First, as regards the dialectical approach generally, how does one determine that a dialectical approach will prove useful for any particular field of study? Might there not be disciplines—praxeology, for example—which can, in fact, proceed deductively from *a priori* axioms to valid conclusions without any assistance from dialectics, empiricism, or other such handmaidens?

Sciabarra is very concerned that social thinkers and would-be reformers keep track of "internal relations" which hold between the "parts" of systems and societies. Fine, we might say, but "internal to what?" Selection of the whole to be studied is a key question in any science or for any problem under consideration. Sciabarra remarks, here and there, that he might be taken to be exhorting us to keep track of context, and nothing more; put that way, who could disagree?

Let us say that we wish to study "society." What might that be? Is it the sum of all human beings and all their activities from Fairbanks down to Tierra del Fuego and back up to Uppsala by way of Cape

Town, Alice Springs, and Port Moresby, thence to Nairobi, Vladivostok, and back to Fairbanks? Is our subject mankind in its “species-being” with special emphasis on “labor”? I sometimes think that what little sense there is in Marxism can be gleaned by substituting “human action” every time Marx says “labor” (at least in his more philosophical writings). But why go to all that trouble when we already have a theory of human action?

If Mankind is not the whole to be studied, then we might study civilizations, along with Spengler, Toynbee, and Quigley, without arriving at quite the level of specificity we likely have in mind. In the end, we may find ourselves studying politically bounded societies juridically defined as nation-states. We find that people in such societies undertake political, intellectual, economic, and other activities. Is everything within those boundaries part of the “whole”? If so, how useful is the concept, and for what purposes?

Sciabarra believes that we cannot usefully separate market from state in the way Rothbard wanted, as analysis and program. To my mind, this is like saying we cannot separate fractional reserves, fraud, or robberies by Jesse and Frank James from the concept and/or reality of banking. It might be that to conflate state and market (and other things) as parts of “the whole” is to repeat the errors of *Enfantin* and *Bazard*, who did so in opposition to early political economy. One is reminded of E.P. Thompson’s critique of the structuralist Marxism of Louis Althusser as amounting to a restatement of functionalism.

Sciabarra asks whether, in our own society, where state and market become ever-more intertwined, we can usefully say which outcomes (or parts of outcomes) are to be attributed to one or the other. Put that way, I am not certain that it matters. If we could specify everything in the detailed way apparently called for, socialism could calculate economically and horses might fly. The more modest project of showing that interventions necessarily reduce welfare, productivity, etc., seems entirely sufficient. We can demonstrate that specific interventions benefited, or were meant to benefit, specific parties, even if we can’t account for every dollar in question.

Sciabarra writes:

By focusing on the instrumental nature of the state in these instances, Rothbard provides no means of grasping *structural* bias, since the interventions seem to have no systematic character about them. (p. 285)

Sciabarra then seems to remember that Rothbard's notion of class or caste conflict centers on the state and thereby solves his (Sciabarra's) problem. If Rothbard, in one essay or another, focuses on specific historical actors who "use" the state for the usual, sordid, corporatist reasons, that does not subtract anything from his theoretical analysis, elsewhere, of the *permanent state apparatus* with its "command posts" and all the rest. All we have here is the difference between history and theory.

Rothbard's "dualistic" opposition between state and market (= society) seems entirely on track. His earliest work sought to build upon the distinction between voluntary action and coerced action. The analysis of voluntary vs. coerced social orders promises to be more fruitful than competing approaches, such as, for example, analysis resting on the Hayekian contrast between spontaneous order and designed order. In passing, I would like to call on those who keep talking about social "evolution" to spell out, some time, the many differing meanings which they assign to that term; then, they might pause to justify shifting from one meaning to another.

Rothbard's approach to theory and history suggests, in fact, a fundamental reformulation of the Marxist base/superstructure problem. It is notorious that Marxists have much trouble with this and, in practice, call forth traits or elements from one to explain the other, pretty much as needed. To explain events, Marxist historians constantly call on politics even while denying, in principle, any autonomy to politics as such.

But in Rothbardian terms, "civil society" contains its own culture, law, etc., *before and outside the state*, and the state, as such, can be viewed as entirely parasitic. Civil society is its own "whole" and the state, as superstructure, does not seem to have a necessary relationship to everyone and everything within the confines of a presently bounded political society. Some things *are* contingent.

A related matter is Sciabarra's concern that Rothbard's goal of having societies adopt a libertarian law code is "constructivist" and impossible. Years ago, Felix Morley remarked how odd it was that writers on social contract theory never looked into actual social contracts where they were found, that is, in British North America from the colonial period down to the present. We adopt *constitutions* all the time. What is so inconceivable about a constitutional convention which adopts an anarchist law code? Would the voters ratify it? We can't predict that, but, on the other hand, they have done worse in the past and might be ready for something completely different.

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There are weaknesses, then, in Sciabarra's critique of Rothbard, as well as problems of a more general nature in the book. One is the way in which Sciabarra shifts between dialectics as epistemology and dialectics as underlying reality. Much remains less than clear, leading me to suspect that Sciabarra's own position suffers more from "organicism" than he realizes. On the other hand, his reflections on method are both interesting and welcome. His grasp of the connection between nominalism (atomism) and bad theory—the line from William of Occam to Hobbes to mainstream economics and empiricist statism—is unexceptionable.

I wish to dissuade the reader of the idea that I dislike this book; that is quite untrue. I have been following Chris Sciabarra's work since he first aired his ideas some ten years ago in *Critical Review*, and I have to say that his presentation of them has improved greatly over the years. His demand that we keep track of our levels of abstraction in an organized way is quite in the tradition of C. Wright Mills, and, for that matter, Murray Rothbard.

This is an important book, one which ought to spark serious discussion about libertarianism as a way of looking at society. This is true whether or not one subscribes, in the end, to the author's enthusiasm for dialectics. Yet, despite Sciabarra's brave and wide-ranging attempt to establish a dialectical libertarianism, if we wish to derive useful insights into society and politics from long-standing non-libertarian systems of political and social analysis, we would do much better by looking into classical republicanism than by taking our cues from nineteenth-century thinkers such as Hegel and Marx.

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A. JAMES GREGOR. *THE FACES OF JANUS: MARXISM AND FASCISM IN THE TWENTIETH CENTURY*. NEW HAVEN, CONN.: YALE UNIVERSITY PRESS, 2000. Pp. 240.

Thoughtful persons have long compared the totalitarian systems of the twentieth century. Indeed, the application of the word “totalitarian” beyond its original Italian context has been an act of comparison. But since the emergence of Bolshevism and Italian Fascism by the early 1920s, Western scholars—and frequently totalitarian ideologues themselves—have tended to conceptualize the Marxist-Leninist system as a political opposite to Mussolini’s Fascist party and regime, as well as to German National Socialism and the various other “fascist” parties in the thirties. The standard political spectrum taught yearly in thousands of college classrooms only makes sense as a product of this specific conceptualization.

On the other hand, from the 1930s onward (in a few cases one may say from the 1920s onward), classical liberals, libertarians, and paleo-conservatives have, to varying extents, rejected the standard political continuum for the very reason that it seemed to be based on inadequate criteria and even false premises. After all, a spectrum that put Communism and Nazism at diametric extremes distorted reality in significant ways. Yet, rigorous comparisons of Communism and Fascism in mainstream of Western intellectual life have, in most cases, been cut short by reverence for the great “intellectual” orthodoxy that Communism was a great and well-meaning experiment which unfortunately created some “excesses.”

Both for those who have long contemplated the similarities of the supposedly antipodal “extreme right” and “extreme left,” and for those who are just working their way into this fascinating subject, *The Faces of Janus* will be a welcome and highly illuminating work. A. James Gregor is a prolific authority on both Marxism and Fascism, and he offers us here a work of mature, careful, and extensive scholarship on the relationship between Marxism-Leninism and Fascism.

Gregor begins by pointing out some gross disjunctions in Western theories of twentieth-century revolution. Fairly consistently since the 1930s, academic, literary, and intellectual observers have identified Marxist-Leninist and fascist movements as polar opposites. Although some scholars began to apply the term Totalitarian (which came from the Italian Fascist vocabulary) to both “Right” and “Left” forms of ideologically authoritarian regimes, Western academics continued to view Fascism and Soviet Communism in terms of a strict dichotomy.

Fascism was irrational, Communism was rational, even scientific. Fascism was nationalist, Communism was internationalist. Fascism was selfish and aggressive, Communism was a well-meaning (albeit sometimes bumbling) attempt at universal sharing. Fascism was an evil design, Communism was the Great Experiment. And so forth.

Gregor, on the other hand, shows that the failed Marxist-Leninist revolutions do indeed look very much like the failed Fascist revolution of Italy and the various Fascist-like revolutions (including that of the National Socialists). In fact, Gregor finds contradictions to the standard political spectrum not only in Stalin's "socialism in one country" but in Fascist thought as well. Indeed, one of the valuable contributions of this book is Gregor's examination of the little-emphasized early career of Mussolini as a leading Italian Marxist and syndicalist theorist.

By way of a note, since the book is at its core a study of Italian Fascism and Russian Communism, Gregor says little about the National Socialist regime in Germany, though he does point out more than once that Fascism was very much the pioneer, Nazism very much the follower. In fact, he discusses numerous other "fascisms," though his main comparative category is Italian Fascism, with a capital F.

The standard conception of Fascism as the opposite of Marxism-Leninism, Gregor shows, derives directly from the earliest critiques of Mussolini's Fascist movement by Mussolini's former comrades, Italian Marxists, along with Austrian, French, and German Marxists. By the mid-twenties, immediately after the Fascist seizure of power in Italy, Clara Zetkin and other Comintern members worked out the coarse outlines of a Marxist line: Fascism was simply the front for capitalists who were struggling against the working class to bolster "the terroristic dictatorship of big capital."

The Marxist critique became more sophisticated over the next decades, but the vision of Fascism as an essentially inhumane opposite to Marxism remained a staple. In the thirties, R. Palme Dutt summarized many of these elaborations in the form of a standard narrative: Marx showed that the capitalist system must reach a crisis of profitability in which the rate of profit sinks toward zero; the interests of heavy industry and high finance would no longer be able to develop the forces of production; capitalism would have performed its historic role, and the capitalists would have to resort to sheer terror to maintain their power; Fascism represented this sheer terror. According to Dutt, generic fascism was "the most complete expression of the whole tendency of modern capitalism in decay" (p. 34).

Gregor points out that even in the thirties, some Marxist intellectuals were already rejecting the mainstream Comintern theories as unworkable. Both Otto Bauer and Franz Borkenau conceived of the fascist movements as anything but simple fronts for the capitalists. Borkenau, in particular, viewed fascism as a movement whose role was that of a “mass-mobilizing developmental dictatorship under single-party auspices,” a transitional form of nationalist authoritarianism which accelerated economic development to bring the economy into line with national power—essentially a “Bonapartist” process. Both Bauer and Borkenau were thinking of Stalin and his nationalization of the revolution in Russia.

After the Second World War, Marxist theories about fascism turn on the death of Stalin in 1953, his denunciation by Khrushchev in 1956, and the subsequent enmity between Russia and China. The mutual name-calling which the Sino-Soviet hostility brought about in the sixties gave ample opportunity for Soviet and Chinese Communist theorists to brand each other as fascists. Theoretically, the important point here was that Marxists were explicitly asserting that fascism could arise in a system that was not capitalist at all, and, hence, could not be a front for capitalists. Fascism was no longer a historical category but a descriptive term, and a pejorative one, to be used to describe any state monopoly system which exhibited certain features.

Indeed, much of the theory behind the waves of the Western academic analysis of fascism in the 1960s and 1970s, Gregor shows, came directly from Chinese and Soviet critiques of each other. Gregor finds much that is, almost ironically, accurate in these Marxist slanging matches, since both sides did, in fact, possess the characteristics of which they accused each other. Loyal Maoists, Gregor writes, could truthfully show how to avoid the snares of the evil revisionists:

To be a true Maoist revolutionary, to thwart fascists, all one had to do was to obey the Chairman in an orgy of submission that many academicians, East and West, insisted was a defining trait of right-wing extremism.(p. 83)

Indeed, one finds in both the Chinese and Soviet systems endless “fascist” characteristics: the Führerprinzip, the command economy, futuristic irrationality, and much more.

Gregor puts many of his arguments together in discussing the rise of fascist-like movements in Russia and other lands of the former Soviet Union in the 1980s and since the fall of Communism. With roots in the sixties, a strong intellectual movement emerged in the

1980s which assisted the nationalist revival. Sergei Kurginian, for example, was a devoted Communist and the author of influential writings which aimed at “national salvation” through a more powerful state. Kurginian approved of Stalin’s hierarchic, inflexible, relentless regime, but he thought Stalin had made his “achievements” despite Marxism, not because of it. Gregor labels Kurginian’s ideas as “proto-fascist,” and shows that Kurginian’s influence on Gennadi Ziuganov, one of the most important leaders in the post-Soviet Communist Party, has been substantial and direct. Others, too, have adopted variants of fascist programs in post-Soviet Russia. Almost all started out as particularly committed Marxist-Leninists.

The backbone of Gregor’s analysis is his concept of “reactive developmental nationalism,” a concept which he seems to adapt in part from several of his subjects, especially from Marxist Franz Borkenau and proto-fascist Roberto Michels. Though Gregor does not treat this concept in a systematic way, his counter to the standard “opposites” theory of Marxism and Fascism seems to stem from it. In brief, reactive developmental nationalism represents, according to Gregor, a tendency which emerges when a “nation” sees the need to forge ahead economically in order to assert its national identity and place in the sun, and when the progress toward this place in the sun seems stymied by some foreign catastrophe or national embarrassment. The result is a “reactive” authoritarianism, an attempt to develop the nation from the top down and to adopt something like the “reactionary modernism” which Jeffrey Herf has written about in the case of German National Socialism. Gregor sees both Marxism-Leninism and Fascism as the progeny of this process.

Classical liberal or libertarian thought dovetails perfectly with Gregor’s demonstration of the similarities of the two systems, but many of the readers of this journal will consider his analytical framework of “reactive nationalism” as unnecessarily complicated. The centralization of power has accompanied the Leviathan state since its earliest development some five or six hundred years ago; World War I and its aftermath simply intensified that longstanding tendency. The particular forms of authoritarianism require historical, but not necessarily “theoretical,” explanation.

An extension of this critique of Gregor’s book is that his tendency to hold up “democracy” as the true counterpoint to both Marxism-Leninism and Fascism demonstrates the weakness of reactive developmental nationalism as an explanatory category. The twentieth century has

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shown that democracy has been highly creative and vigorous in developing its own patterns of centralization, Leviathanism, imperialism, collectivism, and intervention into the lives of individuals.

This criticism notwithstanding, *The Faces of Janus* is an outstanding work of careful scholarship which speaks directly to issues long of interest to students of liberty.

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